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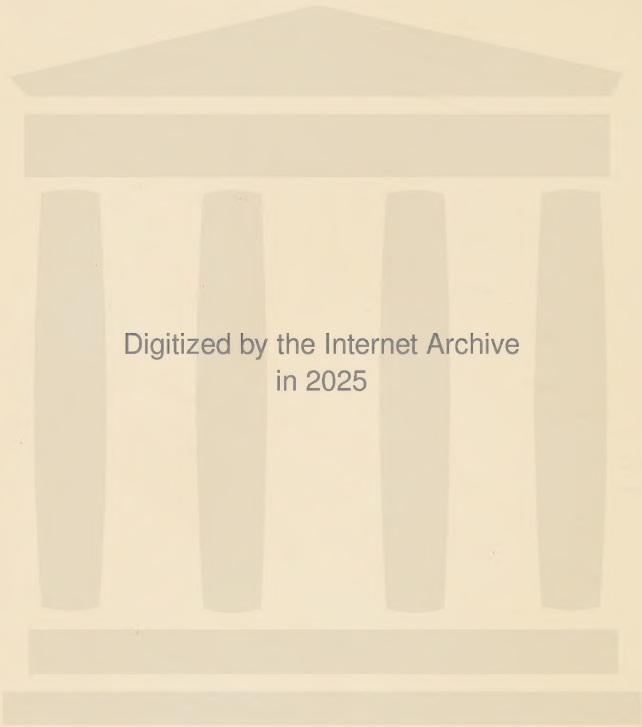
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THE GERMAN PEOPLE

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HISTORY OF THE GERMAN PEOPLE AT THE CLOSE OF THE MIDDLE AGES

By Johannes Janssen

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HISTORY

OF

THE GERMAN PEOPLE

AT THE CLOSE OF THE MIDDLE AGES

BOOK III

POLITICAL ECONOMY—*continued*

CHAPTER II

CONDITION OF THE ARTISANS

The economic progress of Germany at the close of the Middle Ages was incomparably more important in the field of manufacture than in that of agriculture or of cattle-breeding. Industrial work in all its different branches and products reached, at that time, a degree of perfection which it never again recovered after its period of marked deterioration towards the end of the sixteenth century.

To Charlemagne the commercial and manufacturing interests of the Middle Ages were much indebted. It was he who, centuries before, had cherished their beginnings. He tended and protected all the many industries which had come down from the time of the Romans, and added to their value by improved

innovations. In every imperial demesne of any consequence were to be found, in conformity with his regulations, workers in gold and silver, blacksmiths, shoemakers, turners, waggon-makers, carpenters, armourers, lace-makers, soap-boilers, brewers, and bakers.

Charlemagne introduced the miners who worked the iron and lead mines of Rhenish Franconia, Thuringia, and Suabia ; under his protection also tanners, dyers, and linen manufacturers flourished. As the imperial demesnes were very numerous in all the provinces of Germany, the result of the economic regulations, over the observance of which the Emperor kept strict watch, was to cover the country rapidly with a great network of manufacturing industry. For the erection of his palaces or public buildings he brought workmen from all countries on the German side of the sea, and he thus called the stonemason's trade into existence on German soil. Home industry was improved by competition with foreign work. In the monastic establishments painters, architects, and brassfounders were henceforth to be found in large numbers.

As the monasteries had been for centuries past the schools of agriculture and horticulture, so, too, they were the actual nurseries of all industrial and artistic progress ; it was in these institutions that handicraft first developed into art. The bishops were the great patrons of architecture in those days. Well might the trowel be introduced into the episcopal coats of arms.

As in the first centuries after the establishment of the German Empire a great number of dilapidated Roman towns on the banks of the Rhine, in Suabia and Bavaria, had been raised from their ruins and rebuilt

through the exertions and instrumentality of the bishops, and, later on, all the episcopal sees, without exception, had grown gradually into cities, so, for a long period, it was an essential part of the idea of a city that it should possess a bishop. In the train of the bishops there followed also all the different industrial arts, and by means of the fairs and markets held in connection with all the Church festivals trade and manufacture received constant fresh stimulus and encouragement.

The case was the same with those towns which had grown up out of royal palatinates, as well as those which in the course of the centuries came to be founded by the princes. The most rapid progress and the most marked prosperity in commerce and manufactures were to be found in those cities of the Rhenish and Danube provinces which dated from Roman times, and which contained both a royal and an episcopal residence. Foremost in the line of mediæval cities stood Mayence, Cologne, and Ratisbon; next in order, in Southern Germany, were Augsburg, Nuremberg, and Ulm; and in the North, Bremen, Hamburg, Lübeck, and Dantzic. All industrial activity, from the fourteenth century onwards, belonged almost exclusively to the towns, and was inseparably bound up with the whole civic organisation.

With regard to all the relations of life and society, each city formed an independent and exclusive association, looking on its collective inhabitants as one large family, for whose welfare it was no less bound to provide than is a father for his own household. This paternal care was looked upon as a sacred duty, and included not only moral supervision, but solicitude for material necessities also. With this object in view, 'in the

interest,' that is, 'of common needs and spiritual well-being,' the ruling authorities regulated, according to the different conditions of each city, the general production, distribution, and utilisation of provisions and goods, as well as their prices and sale. In order that each inhabitant within the city radius should be supplied with all necessaries for food, clothing, and lodging, they aimed at having each industrial trade represented in the towns, and until this condition of things could be realised artisans and tradesmen were imported from other cities. These foreign workmen, however, were subject to certain restrictions: for instance, in order to insure the support of native industry, the citizens were bound over to give their orders to, and make their purchases from, their own tradesmen only, and not to deal first-hand with strangers. By this means a monopoly of industrial trade and the profits of their work were secured to the artisans and tradespeople within the city boundaries; they were also guaranteed the right of employment and of fair wages. Their trades or handicrafts thus became permanent property, and these rights were respected by all.

These trades rights were conceded as trusts or grants 'from God and from the appointed authorities,' and work itself was looked upon as confided by God and the legitimate authority for the general good. The civil authority invested certain groups of workers with those rights, and they, in turn, formed guilds. In the leagues thus formed, however, each guild was perfectly independent.[1]

[1] W. Stieda, in Hildebrand's *Jahrbuch für Nationalökonomie*, has treated exhaustively the much discussed question of the establishment of the guilds (vol. ii. pp. 1–163; Jena, 1876).

The most important and conspicuous of these were almost everywhere those connected with the manufacture of linen and wool. In Ulm, for instance, towards the end of the fifteenth century, there were so many linen-weavers that the number of pieces of linen prepared in one year amounted once to 200,000. In the year 1466 there were 743 master-weavers in Augsburg, and the number increased from year to year;[1] in the large cities the linen- and wool-weavers formed two distinct corporations, and the wool-weavers again were divided into two classes, viz. the makers of fine Flemish or Italian goods, and the makers of the coarser home-spun. Artisans of this first class were, after the fifteenth century, divided into stuff-weavers and cloth-shearers.

In Nuremberg the weavers inhabited a separate quarter of the town, where were to be found the dwellings and workshops for all the different operators of the trade—the wool-combers, the cloth-shearers, the fullers—in short, for each and every branch of the trade. Here, too, were the cloth-hall, the guild-hall, and the social clubs. 'In many Westphalian towns,' writes Wimpheling, 'we find loom upon loom at work, and it is difficult to estimate how many hundred thousand yards are made from month to month by the different guilds. The weavers are no less industrious than clever, and are much respected by all their fellow-citizens.'[2]

Almost contemporaneously with the weavers the dyers appear on the scene—dyers both in black and colours. In Erfurt the large crops of teasels and pastels were used by the cloth and cloth-dying establishments

[1] Herberger, *Augsburg und seine frühere Industrie*, p. 46. There were forty dye-houses outside Augsburg, and still more within the city. Schmoller, p. 519.

[2] See the close of *De Arte impressoria*.

of the city. As leather and fur were used for dress much more then than now, the guilds of tanners and furriers were very flourishing; these last included the shoemakers and tailors, also the glove-makers and the stocking-knitters, employed in the manufacture of leather and woollen gloves and stockings. In the shoemaker's trade we find a great distinction drawn between the *Neumeister*, who made new shoes, the cobbler, and the slipper-maker. The same distinction was drawn between the tailor proper and the repairer.

In the department of provisions there were the guilds of bakers, butchers, fishmongers, gardeners, coopers, brewers, and wine porters. The innkeepers also sometimes formed themselves into corporations, and in the larger cities a distinction was made between the managers of first- and second-class hotels and of eating-houses.[1]

The most marked classification is to be found in the iron and metal workers; artisans of the different branches were often united in their own special guilds. The farriers, knife-makers, locksmiths, chain-forgers, and nail-makers often formed separate and distinct divisions; the armourers were divided into helmet-makers, escutcheon-makers, harness-makers, harness-polishers, and so on. Sometimes even they went so far as to have special guilds for each separate article of a suit of armour. This accounts for the remarkable skill and finish seen in the simplest details. Many of the specimens of armour handed down to us are admirable works of art.

In numbers of trades, indeed, more particularly in

[1] The same in Basle, Nuremberg, Ulm; see Maurer, *Städteverfassung*, ii. 469–470.

those of the gold and silver, bronze and copper smiths, and the workers in wood and stone, art and handicraft were so closely connected that the productions belong as much to the history of art as to that of manufacture. The corporations of architects took a foremost place, and the German architects and builders ranked as the best in all Europe. In the year 1484 Felig Fabri of Ulm wrote thus: 'When anyone wishes to have a first-rate piece of workmanship in bronze, stone, or wood he employs a German craftsman. I have seen German jewellers, goldsmiths, stonecutters, and carriage-makers do wonderful things among the Saracens; they surpassed even the Greeks and Italians in art. Only last year the Sultan availed himself of the advice, knowledge, and labour of a German when he surrounded the harbour of Alexandria with a wall which is the wonder of the East.' Fabri draws attention to another industry in which Germany excelled when he writes: 'Italy, the most renowned of all lands on earth, has no such good, wholesome, and appetising bread as that which the German bakers make; so that the Pope and the high prelates, the kings, and princes, and great lords, seldom eat bread that is not prepared according to German fashion. The Venetians employ only German bakers in the Government baking houses for preparing the *Zwieback* (biscuit) which is used by the army and at sea, and this bread is actually sold throughout Illyria, Macedonia, the Hellespont, Greece, Syria, Egypt, Mauritania, Spain, and France, and as far north as the Orkney Islands and all the English and Dutch sea-ports.' [1]

[1] See Mascher, pp. 263–264. In the matter of making waterworks the engineers of Augsburg and Ulm were highly renowned. See Herberger, *Augsburg's Industrie*, p. 44. The Italian Paul Jovius assures us that

All the guilds were subject to the town council and authorities, and were obliged to submit all their statutes and ordinances to them for ratification. In the event of quarrels either within or between the guilds, the civil authorities exercised a commercial jurisdiction, and also, in conjunction with the guilds, made regulations for the market and police arrangements, fixed the prices of wares, organised the supervision of traffic and its protection from fraud or dishonest dealing. Down to the sixteenth century there still prevailed a strong desire for the preservation of friendly relations between the guilds and the town authorities, for keeping up the balance between self-government and municipal control, between individual freedom and civic unity. In the private concerns of the guilds the members virtually enjoyed complete independence. The architectural and artistic works of the fifteenth century, with their fidelity to first principles and their originality of detail, are eloquent symbols of the industrial life of the age.

The actual *raison d'être* of these corporations, however, was not the protection of trade rights, but rather mutual brotherhood or association in all the common aims of life. The members, as many of the guild rules testify, were bound to 'show a brotherly love and loyalty to each other through life to the extent of each one's ability, to live in peace and kindness one with the other, and in all things to practise Christian and fraternal charity,' and this not only with regard to their own

his compatriots employed German architects, sculptors, stonecutters, copper-engravers, mechanics, and surveyors. See Fischer, *Geschichte des deutschen Handels*, ii. 506. Schoiler writes (*Strasburger Tücher und Weberkunst*, p. 497): 'The fifteenth century was a brilliant period for German art, and was the admiration of neighbouring nations; in an artistic sense we may look on the age as a Paradise lost.'

personal concerns, 'but to all citizens and wherever occasion demanded it of them.'

The book entitled 'A Christian Admonition' says: 'Let the societies and brotherhoods so regulate their lives according to Christian love in all things that their work may be blessed. Let us work according to God's law, and not for reward, else shall our labour be without blessing and bring evil on our souls. Men should work for the honour of God, Who has ordained labour as our lot, and in order to gain the reward of industry which lies in each one's inner soul. He should labour in order to gain for himself and his family the necessaries of life, and what will contribute to Christian joy; and, moreover, in order to assist the poor and sick by the fruits of his labours. Thus will the brotherhoods and trade societies accomplish good. He who, acting otherwise, seeks only the pecuniary recompense of his work does ill, and his labours are but usury. In the words of St. Augustine, "You shall not commit usury with the work of your hands, for you will thus lose your soul"'; and again, 'The usurer shall not be tolerated, but the guild shall expel him as an unworthy member.'

It was out of this conception of the spirit of labour as pious action, as the complement of prayer, and as the foundation of a well-regulated life, that there grew up that close connection between religion and daily life which inspired many of the simple artists of the time to represent the saints holding some implement of work, or engaged in some industrial pursuit; as, for instance, the Holy Mother spinning as she sat by the cradle of the Divine Infant, or St. Joseph using the saw or carpenter's tools. 'For seeing that the saints also worked and laboured, so shall the Christian learn from

their example that by honourable labour he can glorify God, do good, and, through God's mercy, save his own soul.' [1]

This union of labour with religion and the Church gave these corporations a certain ecclesiastical stamp. Each had its own patron saint, who, according to tradition, had practised that particular branch of industry, and whose feast day was celebrated by attendance at church and by processions. Each maintained by general contributions its own special charity, and was attached to some particular church, where it had its particular pictures, altar or chapel. Each felt a kind of ownership in the house of God, and had its own appointed seats in it—some, a side chapel of their own. The guilds had Masses offered on appointed days for their members living and dead. Among the regulations of a stonecutters' guild flourishing in 1459 we read: 'If, according to the Christian dispensation, all are bound to seek the salvation of their souls, how much more so are those masters and workers whom God has graciously endowed with talents, whereby they are able with art and labour to build churches, and do other costly works to gain a living? If they possess Christian hearts they should be filled with gratitude, and work for the glory of God and the salvation of their own souls.' Moreover, the brotherhood was to continue beyond the tomb. 'He who neglects to assist his deceased brother by praying for his soul's repose has broken the promise which he made on being received into the society.'

The union of religion and labour was a tie between the workers. It imparted a kind of consecration and

[1] Wyhegertlein Bl. 9.

consolation to work, filling men with earnestness and zeal in accomplishing what they believed was the will of God. The religious observance of Sunday and of holy days was commanded by most of the guilds: whoever worked or made others work on those days, or on Saturday after the vesper bell, or neglected to fast on days prescribed by the Church, incurred a penalty.

These guilds were also mutual aid societies: 'As brothers in Christ and His saints the members should assist each other, help the sick or impoverished, care for the widows and orphans, bury the dead, and remember the poor outside the society.' According to the statutes of a brotherhood in Kiel, it was decreed that during the High Mass on the feast of the patron saint twelve poor people should be fed, and a good piece of beef and a loaf of rye bread given to twelve poor students. Many benevolent institutions owed their foundation to some guild. For instance, St. Job's Hospital for small-pox patients at Hamburg was founded in 1505 by a guild of fishmongers, shopkeepers, and hucksters. There was a large number of these benevolent associations of tradesmen in the cities. At the close of the fifteenth century there were seventy in Lübeck, eighty in Cologne, and over a hundred in Hamburg.

Besides this efficacious benevolence the societies had another object in view—the reputation of the members. Whoever wished to become an associate must be of legitimate birth; for all honours and benefits of the city were made conditional on legal marriage. Every member must be 'a man of honesty,' and his 'good reputation must be vouched for by good authority or by a sealed document stating that he was born of pious

parents in wedlock, and was himself pious.' So run the statutes of a goldsmiths' guild at Frankfort. Idleness, staying out at night, play, drinking and debauchery were strictly forbidden and severely punished in the associates and apprentices. Those who had incurred the punishment of dishonour were expelled.

The guilds in their character of industrial unions gave proof of their religious and moral conception of labour. Their work was to them as a manifestation of their personality, and must therefore be pure and faultless as the character of the workman, and be a standing witness of joyous devotion to voluntarily accepted duty. The associates in their conduct towards each other maintained the principle of equality and brotherly love, and thus prevented the conflict between the claims of individual right and the claims of possession, or, in other words, between the rights of labour as opposed to the rights of capital. Care was taken to ensure that purchasers and consumers should be supplied with good articles at reasonable prices.

With regard to the associates, the guild maintained the principle that the labour rights belonged to the organisation first, and to each individual only as a member of the body. As a member of the organisation each one was alike obliged to work and alike assured of the fruits of his labour. Each being obliged personally to work, it followed that there was no class of mere contractors who, 'idle themselves, lived in luxurious ease on the sweat of others.' Only real labourers were admitted into the corporation. When a master fell sick a substitute was provided. Widows only were granted the privilege of carrying on their business through a manager. But if everyone was obliged to

work, each one was assured of the income of his labour. The strong could not oppress the weak. Strict regulations protected the rights of each member.

The purchase of raw material was managed by the guild as a body. Either the materials wanted were bought in a wholesale manner by specially commissioned members, and distributed in equal parts or according to the requirements of members, or else special times or places were fixed on, at which all the members could supply themselves with the same material at the same time. If an opportunity for purchasing should offer to any one member, it was his duty to make it known to the guild, so that all might profit equally by it. If he had bought goods wholesale, he was obliged to subsell to his brethren at cost price, for 'everyone shall have the same means of subsistence' and the 'advantage of the poorer shall be secured.' Each guild was, so to speak, a wholesale store.

In order to equalise the profits of work the guild regulated the wages and the conditions between the master-workers and their assistants. Nobody was allowed to induce an assistant to leave his master, or to hire one who had run away from or been discharged for cause by an associate, or, further, who had transgressed the laws of trade or of morality.

The amount of work done and the hours of labour were also regulated strictly on the principle of equality and fraternity; each master was allowed only a certain number of apprentices and associates; he was not at liberty to overtax their powers, or to make them work at night-time or on Sundays or holy days. Each master was entitled to the privileges of the establishments common to the guild; for instance, the wool-weavers

had the use of the general drying houses, fulling mills, dye-houses, bleacheries, and sales houses.

With regard to the sale of their productions there was also perfect equality between all the members. The prices and the times and places of selling were fixed; no member was allowed to have more than one shop or stall, and peddling was forbidden. It was enacted that 'they must sit in their shop and wait for buyers to come, but not call them up.' Some guilds even went so far as to forbid the associates from dealing with or giving credit to the debtors of a brother associate. The whole stock of movable and immovable property belonging to the guild was the common possession of all the members and at the service of all. This capital enabled the guilds not only to assist the sick, the poor, and the widows, but to make advances and loans to associates in need. Thus each guild became a credit and loan institution.

The same paternal care was exercised for the benefit of purchasers and consumers, and here the city authorities and guilds worked hand in hand 'for the general good.' It was incumbent on the guilds, according to their own declaration, to be loyal and true in furthering the general good and protecting the reputation of the society. Therefore they were careful to produce only such work as was 'good and faultless,' and they held themselves responsible for the quality of their goods. With this end in view they were not satisfied with directing the workmen in a general manner to acquit themselves well in their tasks, but they entered minutely into all the details relative to the manner of preparing, fashioning, and finishing off articles for sale. In order that nothing shoddy or sham should be offered, that the

rich and the poor should be treated alike, 'no one be cheated, and the reputation of the society be upheld, the representatives of the guild and of the municipal authorities shall, at stated times, visit the workshops and seize and destroy whatever is condemned.' It was the law of some guilds that every article should be tested before being delivered to the purchaser or offered for sale. The production of bad or inferior goods, or any kind of fraud and cheating, was punished by fines or corporal chastisement. In Dantzic, for example, the goldsmiths were fined four pounds of wax for each piece of dishonest work; in Lübeck every piece of 'faulty goods' was destroyed; in Berlin any woollen-weaver or draper who placed a false mark on his goods, sold badly dyed cloth, or, in a word, was guilty of any dishonesty, forfeited his membership in the trade organisation, and all his wares were torn up or burned.

There were even stricter regulations with regard to food and provisions, both as to the quality of the goods and their prices. 'In order to secure moderate prices to the poor' the civil authorities not unfrequently carried on a trade in cattle and corn, more especially in this last commodity, so as to prevent usury. There were inspectors of bread, flour, flesh, fish, wine and beer. Wheat, rye, oats, and barley had each to be baked in different ovens, and there were different kinds of bread. In Augsburg, for instance, there were six different grades of bread. The price of edibles was regulated by the value of the raw material and the cost of labour. The markets belonging to the city or to the guilds were not allowed to over- or under-sell the individual tradesman. Any baker selling bad bread, or butcher selling bad meat, or fishmonger selling bad fish,

or asking unfair prices incurred severe punishment. In Vienna, Ratisbon, and Zürich dishonest bakers were placed in the *Schnelle*—that is, a basket with a long pole—and dipped in a puddle. *A propos* of the meat inspection there is a poem in praise of Nuremberg which reads as follows:

'In the laws for the inspection of meat it is ordained that when a cow or bullock is killed two or four judges shall decide the value of each pound—three or two pennies. The price and the quality of the meat shall be notified on a board, so that the customers (like so many fools) may not purchase cow for bullock meat.' Calves of too tender an age were got rid of. The butchers were forbidden to torture the animals. In Dantzic it was not allowed to suffocate animals that were to be killed for the market: they 'must be stabbed and killed according to the old custom.' Beer- and wine-making were subjected to severe inspection. Wine for ordinary use or for medicinal purposes mixed with birch, sulphur, clay, eggs, milk, salt, chalk, or any other substance, would be considered adulterated, for, in the quaint words of an ordinance of the city of Basle, 'each wine shall remain as God made it grow.' The sale of wine under false names was also forbidden. The European reputation which the Bavarian beer enjoys to-day is due to this system of strict inspection.

The inspection and testing of the goods of each different trade in a city could not, however, have been carried out unless all who followed a particular branch had been willing to join its guild and submit to the established rules. The guilds were 'compulsory bodies' having the right over trade under the civil protection. The success of industries was owing to this guild

'restraint,' which became injurious only at the end of the sixteenth century, when it became narrowly exclusive with regard to the admission of new members, and degenerated into a mere benefit society for a particular number of masters and their associates.

At their period of full bloom each guild was also its own board of legal administration, securing for itself, within and without, the maintenance of peace and justice. The actual organ of the collective confederated rights, the source of corporate peace and power, was the assembly composed of masters qualified to carry on independent industrial work. This assembly decided on the guild director, the guild master and the assistants. The director was the sworn and responsible ruler of the guild; he called the meetings, presided at them, and had the right of final decision; he managed the property of the guild, collected the taxes and fines, appointed the guild police, and settled any dissensions, either individually or in a council, for every guild possessed its own fully equipped court of justice, which was held openly and gratuitously in the church, the churchyard, or some open space. It decided all difficulties between the associates or between the masters and their apprentices, and punished all infringements of the laws of the corporation. The punishments were generally in the nature of fines, but sometimes entailed temporary or total expulsion and the loss of the right to practise one's trade. The accused could appeal to the civic authorities, but only after the question had been brought before the court of rights of the association.

The directors presided also at the social gatherings held in the guild-houses. When the guilds had acquired

a share in the town government, the directors either themselves represented them or selected the guild-members of the town council, and in times of war they were the leaders of their respective guilds.

In the general interest of trade it was not uncommon for the different guilds of the same city to join together more or less intimately; this was particularly the case between neighbouring cities, or cities linked together by commercial interests. These unions differed in form and character: sometimes their object was the discussion of some particular point, especially in relation to apprentices; for instance, the brothers of the union of tailors of Hechingen and those of the entire barony of Hohenzollern, with the approbation of the baron and of the city of Hechingen, established 'for the honour of God and the general good' a tailors' corporation. The master tailors of the barony in conclave decided on the establishment of the brotherhood, voted a yearly contribution for maintaining a lamp in the Hechingen Church and for the burial of members; made laws for regulating the work of the masters, the salaries of apprentices, the length of their apprenticeship, and the time of their travelling, the various kinds of work, the hours and price of work, and finally for the regulation of the guild 'restraint' and expulsion of members. This brotherhood was, then, the general union of a trade corporation for a certain extent of country, and contained the germs of the unions which spread all over the empire.

While the clergy formed a compact and separate body of their own, while the nobles preserved intact the exclusiveness of their order, and while the merchants of 'the Holy Roman Empire in Germany'

constituted a third distinct organisation, the tradesmen prided themselves on being members of one huge corporate body which gathered into itself all the separate brotherhoods of the different trades. Although they had no written constitution drawn up in black and white, there grew up, nevertheless, out of this amalgamated community of interests and labour a common code of industrial law, and an 'etiquette,' so to say, of trade and industry for all the countries of the empire. By virtue of these rules and customs every craftsman in a German town was entitled to hospitality and protection from the other guilds, and felt himself from the first thoroughly at home in their ways and manners. The regular course of travel obligatory at the close of apprenticeship contributed largely to bringing about this uniformity of guild usages.

Besides the regular fully qualified members, each corporation had associates, who, while excluded from certain rights, still enjoyed the protection of the guild. First the wives and children of associates claimed this protection; these were entitled to be present at their religious services and social pleasures, and had the preference in being admitted to the trades. The continuation of the same trade in families was only the natural result of this spirit. The wife of a master held so important a position in the corporation that she was expected to be 'worthy of the guild.' In a guild document of Lübeck of 1414 we read: 'Whoever in our corporation intends to marry should choose an honest woman worthy of our guild'; another such pamphlet of 1459 says: 'The wife of a master should be of legitimate birth and of German descent.' If she did not fulfil all these requirements, the master lost his

corporation rights. There is also here and there mention of occasional female guilds with duly elected female presidents.

Originally the apprentices and partners held the same position in the master's house as his own children.

The installation of an apprentice, in view of its legal obligations, was considered a solemn act, and it not unfrequently took place before the civil authorities in the city hall; the moral and professional duties of an apprentice were then fully explained, and the young fellow was presented with a letter of apprenticeship, with which he entered the master's family. The master then took upon himself, during the time of apprenticeship, all parental obligations, educating him under the supervision of the guild. An old chronicle says: 'Every master who takes an apprentice shall keep him in his house day and night, feed him and take care of him, and shut him in with door and hinge.' 'The master must take the apprentice to church, and with zeal bring him up in honesty and the fear of God as if he were his own son.' In the book 'A Christian Admonition' we find it written: 'No trade or profession can succeed honourably unless the apprentice is early taught to fear God, and to be obedient to his master as if he were his father. He must, morning and evening and during his work, beg God's help and protection, for without God he can do nothing; no protection of men is of avail without the protection of God; on the contrary, it is often even hurtful to the soul. Every Sunday and holy day he must hear Mass and a sermon and read good books. He must be industrious and seek not his own glory, but God's. The honour of his master and of his trade he must also seek, for this is holy, and he

may one day be a master himself if God wills and he is worthy of it.' 'Oh, the vanity and folly of those who work only for money and human respect! That is evil. When the apprentice fails in obedience and the fear of God he shall be punished, so that through the pain of the body the soul may receive good. The master must not be weak-hearted towards the apprentice, but neither must he be tyrannical nor too exacting, as often happens The master shall protect the apprentice from railleries, ear-pullings, and abuse from the journeymen, as I have seen my father do, who was a master shoemaker in Colmar. May God have mercy on his soul! Masters, think of your duties. The apprentice has been entrusted to you by the guild to care for his soul and body according to the laws of God and the corporation. You must account for your apprentice and care for him as if he were your own son. You are not master only to govern others and to do master-work, but also to govern yourself as Christianity and your trade require. Remember, masters, you must be an example to your wives and children, to your apprentices and servants.'

The master was obliged to maintain his apprentice comfortably and decently, and, according to the laws of some guilds, to clothe him. Great attention was paid to the clothing 'for the honour of the profession.' In an ordinance of the carpenters' guild of Strasburg, 1478, the master was obliged to give his apprentice, besides his salary of four pounds yearly, shoes and white stockings, four yards of grey cloth for a coat, four yards of ticking for a smock; he had also to give him an axe, a saw, a rule, a gimlet, and finally, at the close of every week, two pennies *pourboire*.

The master was held responsible for any carelessness

on the part of the apprentice. In innumerable corporation regulations we find written, ' The master must be so competent, and must so faithfully and loyally teach his apprentice, that he can one day answer for it to God. He must not misuse the time and money of the young man, nor conceal anything from him ; but take care that after his apprenticeship he may be able to earn a good salary. Should the young man at the close of his apprenticeship, through the neglect of the master, not have learned all he should, he shall be entrusted to a second master at the expense of the first ; this latter shall also be punished by the guild.' As a security to the young man, on the day of his formal reception at the city hall, the question was put, whether anyone knew anything against the master who was about to take him, or against his ability to instruct. If the master misused his apprentice he was bound to make him reparation, and he could only dismiss him for theft or immorality ; for other faults he had to complain to the guild, when the director inquired into the matter and saw that right was done. According to the ordinance of Lübeck an apprentice who had stolen over six pennies was disgraced for ever in the trade. Should he without cause run away repeatedly, he was also disqualified. According to a Lübeck ordinance of 1508, after the first flight the master could only take him back by the consent of the council of the corporation ; after the second, the whole organisation were to sit in judgment on him, and after the third time the sanction of the city authorities was necessary for his reinstatement. The guild made good to the master any loss he had suffered from the flight of the apprentice.

At the close of his apprenticeship the apprentice

had a perfect right to be declared freed of his obligations and to be received among the ' companions.' The declaration of freedom was made with the same solemnity as his reception, in the presence of all the members ; each master present was asked three times if he had anything to say against the young man or his apprenticeship. The apprentice in turn was questioned as to whether he had any charge to bring against his master, or whether he had seen anything prejudicial to the society ; if he had, he must declare it then, or for ever hold his peace. If the master declared himself satisfied, the director congratulated the young man, wished him well, and in the name of the Holy Trinity and of the guild declared his apprenticeship ended, when he was received among the journeymen.

For some time after their admission the journeymen continued in the same relative position towards the masters and to the corporation as when apprentices. Generally, they had not only board and lodging in the house of the master, but fire, light, and washing, and they stood in closer intimacy with the family than when they received wages. They were protected in all their privileges by the guild court, which also settled any difficulties they might have with each other or with their masters. Their moral conduct, as well as their work, was, ' by authority of the society,' under the supervision of the master, who could not ignore the responsibility without incurring a penalty. Each companion had to be in the house at an appointed hour, generally nine or ten o'clock ; no one was allowed to remain out all night, or to bring an apprentice or companion home to remain with him. Games of a gambling nature, particularly with dice, were strictly forbidden ; often

too, it was treated as a punishable offence to have been more than once in the week to an inn. Great stress was laid on orderly dress, 'as becoming the honour of the profession.' As 'freemen,' the companions, like their masters, carried swords and other arms, and the sword dance which the shoemakers' journeymen in Frankfort-on-the-Main and the smiths' journeymen in Nuremberg danced during the carnival was a good evidence of the general familiarity with the use of arms. In Frankfort, in the year 1511, on account of riots, the city council was obliged to enact that 'hereafter no master or journeyman belonging to the shoemakers' guild shall carry a sword or dagger of greater length than the measure given of old at Frankfort and designated on the Roemer.' The journeymen of the shoemakers' guild at Leipsic, offended by some members of the university, challenged the doctors, licentiates, and masters to show reason why they carried arms and 'to defend the honour of the profession.'

This spirit of professional honour was greatly fostered and encouraged by the clubs, which, notwithstanding all the efforts of the masters to put them down, became very common in the fifteenth century. These workmen's clubs were formed on the same principles as the guilds and kept up their connection with them, but they had their own statutes and 'rolls,' chose their own directors, and settled all differences in their own courts, sometimes even their disagreements with their masters; they also managed their own funds, out of which they provided for their sick and poorer brothers. When they held court the oldest journeyman took precedence, holding in his hand the journeyman's staff as the badge of his office. According to German custom,

however, he was obliged to confine himself to stating the question; the members, ranged around him, brought forward all the charges, passed the sentence, and had it executed by the journeymen. Like the corporations of the masters, these were obligatory, and in all the documents the rule of compulsory attendance is stated, and against all who should refuse to take part in the proceedings the punishment of exclusion from all share in the communal work and the communal life is threatened. Their meetings were held every two or four weeks, 'to maintain peace and union and to provide for the common house.'

So long as the German journeyman remained at work in a city, he belonged to one of these free and regularly organised societies, which supplied the place of his family and country. If he fell sick he was not left to public charity, but taken into the family of a master, or cared for by his brother-members. 'When the Lord God visits an honourable journeyman with sickness he shall be helped from the common fund, if he has two securities, until he recovers. Should he die, his clothes can be taken as payment; if he leave none, his friends will be expected to pay for him, but if they do not, we shall be repaid by the good God, Who is a generous remunerator, and has repaid for many.' Members could make themselves known by the society's badge or pass-word all over the world—in France, Italy, Languedoc, Florence, Lucca, Pisa, or wherever the German guilds existed; but those of loyal nature would only work with a master of their own guild. Wherever a member went he was under the protection of the local guild, and could claim his professional rights, and every guild-hostel was obliged to receive him. In each of

these guild-hostels hung a tablet, on which were written the names of masters who needed 'companions.' If a travelling journeyman engaged in any work, he was at once placed on an equal footing with the other associates of the locality. If he could not find work, on going away he received from his associates enough to pay his expenses of board and lodging and a 'travelling penny.'

Thus the journeyman was in the first place associated with the family of his employer, in whose house he generally lodged and boarded; in the second place, he stood in the closest relations to his associates of the same age and trade, co-members with him of a society which helped and protected him; and finally he enjoyed special connection with the Church because he belonged generally to one of the sodalities which were ordinarily, but not necessarily, a part of the society usage. These pious sodalities date, for the most part, only from the second quarter of the fifteenth century. For instance, the sodality of the banner-bearers in Frankfort-on-the-Main originated in 1440, that of the shoemakers and tailors in 1453, that of the painters in 1455, that of the butcher-boys in 1455, that of the cotton-weavers in 1460; and many others were founded about the same date. These confraternities were mostly benevolent associations.

The public consideration in which the companions were held was apparent in their particular festive customs, which added so much to the public amusements always so popular. For instance, the companions of the shoemakers' guild in Nuremberg held annually a 'bath-walk.' During the carnival they met at the guild-inn and marched in white bath cloaks and hats,

accompanied by fife and drum, through the city to the public baths and back to their inn, where they regaled themselves. The other trades went in similar processions in characteristic dress. The coopers danced their hoop dance dressed in red cotton stockings, fine white shirts, and green Hungarian caps with bands on the side. In Hamburg the brewers celebrated every two years what they called the '*Höge*,' which lasted full eight days, and consisted of public processions, dancing and sports. The most interesting of these festivals was that of the bakers of Freiburg. The chapel of their sodality was in the Hospital of the Holy Spirit. On New Year's Day they assembled in the meeting-room of the hospital, whence they went in procession through the town carrying an enormous cake (*Brezel*). A beautifully dressed Christmas-tree was shaken by the oldest member for the poor, who gathered up the cakes and fruits that fell from it. Wine was distributed, and the day was closed with dancing. Festivals of this kind imparted to the manners of the Middle Ages a singularly joyous and picturesque character, and strengthened the social spirit of the people. They brought the working classes before the public, and thus stimulated their self-respect. As everyone took part in them, they had the effect of drawing the different classes nearer to each other. When these organisations and sodalities were suppressed, a gradual decline of the enthusiasm of the workmen for their different trades became apparent.[1]

A ten years' strife which existed between the bakers'

[1] Schanz very justly remarks: 'The Roman Code took away the right of jurisdiction from the cities and corporations, and thus increased the power of the princes. The general disintegration which the Reformation caused contributed also to the decline of the corporations, which for the most part were interwoven with the Church.'

guild and the city authorities of Colmar gives the strongest proof of their zeal for their rights, and of the ties existing between the unions. In the year 1495 the bakers struck and left the city because their brotherhood, ' whose rights and privileges they were bound to protect,' had, with the concurrence of the city, been insulted by other corporations : they had in fact been refused their usual position in the Corpus Christi procession. The municipality declared them seditious for leaving the city without cause, contrary to their oath ; but, in order ' that there should not be lack of bread,' they allowed the bakers or anyone else to expose for sale in the market-place white bread, brown bread, and other bakers' products, until the authorities could establish order. Both parties referred their case to the Court of Oberbergheim, which inflicted a fine on the bakers because, ' contrary to their oath and the laws of Colmar, they left the city, not openly, but secretly.' The city was condemned to pay the costs because, ' without sufficient notice, they had placed the bakers under interdict.' The bakers refused to submit, declared that they had not received sufficient reparation, and appealed to the Royal Court of Ensisheim. The latter confirming the decision, the case was taken to the High Court of Justice of the Holy Empire at Frankfort-on-the-Main. Writ after writ was served, charge and counter-charge made ; full ten years the strike lasted, and the strikers were encouraged and assisted by their associates in other cities of the Upper Rhine. The majority of the brotherhood declared any journeyman who worked for a Colmar employer under interdict. It was in vain that other cities volunteered to mediate ; the strike continued, and the state of things became intolerable.

Finally, in 1505, a compromise was made. Several members of the city council and several representatives of the bakers' union from eight different cities of the Upper Rhine appeared before Herr von Rappolstein, who was chosen as referee. It was decided that the strikers should pay the city 166 florins, and that they should be relieved from all other penalty or blame ; they were to be re-established in all their privileges, retain their own statutes, and resume their old position in the procession. The victory was thus, unquestionably, on the side of the journeymen.[1]

In 1475 a similar state of things existed in Nuremberg. When the masters of the tinsmiths' guild, owing to a rise in the price of provisions, decided to reduce the fare of the companions, the latter struck and left the city. They retired to Wunsiedel and Dinkelsbuihl, and placed their former masters under interdict. Through the influence of the union no others would take their places. As a consequence, the tinsmiths' trade, which was one of the oldest and most important in Nuremberg, gradually declined, so that it ceased to have a representative in the city council. Some of the masters established themselves in Amberg and Donauwerth, others became poorer and poorer, and gradually the trade ceased to exist in Nuremberg.

Labour strikes were not unfrequent, and had usually for their object an improved diet, an increase of wages, or the shortening of the working hours.

The tailor companions were the most restless and exacting. In Wesel, on the Rhine, in the year 1503,

[1] See *Les Boulangers de Colmar, 1495–1513 : épisode inédite de l'histoire des coalitions ouvrières en Alsace au moyen-âge*, by P. A. Merklen. *Notes et documents tirés des Archives de Colmar*, by X. Mossman. Colmar, 1871, Nos. 18–23.

during the Whitsuntide festival, they struck for wages and better diet, and resorted to violence. In vain the municipality tried to bring about an adjustment. The journeymen declared 'The workers should have the largest share of the earnings,' pledged their hand and word to each other, and turned their back on the city: 'The clothes ordered for the feast might go unfinished.' It was on this occasion that the mayor said in the guild-house that 'this and other experiences convinced him that the journeymen tailors were more restless and more inclined to disturbance than others; but,' he continued, 'the masters are also to blame, because they overpower the journeymen with work and do not give them three good meals in the day.' The mayor, moreover, threatened to punish the masters if they made the men work on Sundays and holy days up to the hour of church service, as had already often occurred, or if they struck or pulled the hair of the apprentices who refused to profane those days by working and doing all the offices imposed upon them.

In Mayence the journeymen tailors struck and retired to St. Nicholas Mountain. They were expelled from the society, a list of the strikers was made out, and it was decided that 'the above-mentioned shall not be housed or received by any of the masters or by the organisation until they have made reparation.' This move was very significant, for the tailors' guild of Mayence was in league with nineteen other cities to stand by the interests of the trade. In 1505 the master tailors of twenty-one cities on the Rhine, the Main, and in the Wetterau, held a general meeting at Oppenheim to consider 'the interests of their trade and the best means of treating with the workmen.' The restless spiri

of the latter and their constant demands for increased wages became unbearable. It was decided that means must be taken to counteract the influence of Henry Ruffs of Worms, who went around from city to city stirring up the workmen and causing disturbance ; that it was of great importance that the funds of the corporations should not be left in the power of the journeymen, who used them for the encouragement and support of strikes ; that the masters should not be obliged to give the journeymen more than one helping of flesh-meat in the evening, or roast meat more than twice in the week ; wine must not be expected in the evening, and never more than ' a small half-jug.'

Some documents still extant referring to a strike of the watermen on the Rhine give us some idea of how exacting labourers were in their demands for board and wages. The shipmasters complained to the Margrave of Baden that the watermen, ' although receiving a florin a day, were not contented at their meals with a soup, a good vegetable, together with meat, bread and cheese, but demanded also a roast and dessert. This seems unreasonable,' add the masters. ' We cannot afford to give all this.'

In most cases the differences between masters and companions were easily settled, the more readily because both parties, being well organised, were open to the mediation of trusted men. Often the city authorities arranged matters peacefully. For instance, when in 1469 the shoemakers of Emmerich abandoned their work, the city authorities made terms between the contending parties, and, ' after much discussion, through mutual concessions peace was re-established, much to the joy of masters and workers, who drank

together and were as good friends as ever.' In 1479 a revolt of the shoemakers broke out, and the journeymen decided not to work any more for their masters. The steward of the prince and the city council ended the quarrel, after which it was decided that whenever a journeyman had trouble with his master he should carry his grievance to the mayor, and there have the matter arranged. He must not dare to excite the other workmen to stop work and leave their workshops.

As to the varying scales of wages in different industries—which was generally the pretext for revolt—it is only in the case of a few that we possess fuller details; but from these it would seem that the artisans were better off than the field labourers. At Klosterneuburg, between 1485 and 1509, at a time when beef cost two deniers a pound, the day's wage of carpenters and masons was twenty deniers in summer and sixteen in winter. In Saxony at the same period a carpenter or a mason generally received daily two groschens and four pennies, or, in other words, the price of a third of a bushel of wheat. Besides this amount, each mason in Meissen (Saxony) had a right to two jugs of 'hornet daily, and weekly three groschens as "bath money."' Six days' wages would buy three sheep and a pair of shoes.[1]

[1] Falke, *Geschichtl. Statistik*, i. 373–393, and ii. 66–67. Concerning the daily wage fixed for masons and journeymen by the knights and the towns near the Lake of Constance for the years 1433–1444 see the *Zeitschrift für die Gesch. des Oberrheins*, vi. 400. J. D. Blavignac in *Comptes et Dépenses de la Construction du Clocher de Saint-Nicolas à Fribourg en Suisse* (Paris, 1858), p. xxx, says: 'It is evident from the documents of which we give an analysis that the labour of workmen was much more advantageously requited in the Middle Ages than in our day, as anyone may convince himself from the following statements.' These follow on

The large sums in those days given by workmen to benevolent objects would show in what comfortable circumstances they were. The journeymen of the bakers' guild in Colmar were known to pay twenty florins—which, according to the present money value, would be two hundred marks—for two wax candles to be used in the Corpus Christi procession. In the year 1498 sixteen of the journeymen of the shoemakers' guild at Xanten gave fifty-seven florins for a picture and the decoration of the altar, besides a contribution of twelve florins from the general fund. At Dantzic, in the year 1408, the carriers of coal, corn, and beer contributed two hundred marks towards the erection of the Church of St. Mary's, besides giving a window.

The prosperous condition of the journeymen also can alone account for the frequent warnings against their extravagance in dress, and their attempts to vie with those of higher position. At the Diets of Augsburg and Freiburg it was decided, in the years 1498 and 1500, that the journeymen should not buy cloth for their gaiters and hoods which cost more than three-fourths of a florin; for coats and mantles they were to use domestic cloth not costing more than half a florin a yard; they were forbidden to wear 'gold, silver, pearls, velvet, silk-camlet, or embroidered clothes.'

'Be it known unto you, O tradesmen and journeymen,' says 'A Christian Admonition,' 'that extravagance in gold, silver, and such stuffs for clothing is forbidden you. Say not, I earn enough to afford it; your souls cannot afford it; for it is contrary to the Christian idea of your state. It is right and proper

pp. xxx–xxxvi. For the condition of wages at Basle, Cologne, and Ratisbon, see Janner, *Bauhütten*, pp. 172–174.

that you receive good wages and good board; of good clothing have as much as your means will afford; but remember that extravagance is injurious to your souls and bodies, for it engenders all sorts of vices. Possess your souls in strength and purity; no less preserve your bodies strong and pure; to this end use what means your leisure will permit, including bathing and the like.'

This same little book still further says: 'Special solicitude for the labouring and artisan classes, as well as for the poor people, has resulted in the erection of baths in all the villages—and it is a praiseworthy habit to bathe at least every two weeks.' The number of bathing houses in every city, in which the working classes could bathe either gratuitously or for a very small payment, was very great. Dating from the end of the thirteenth century the city of Lübeck had a bath-house in almost every street; in Ulm, at the close of the Middle Ages, there were eleven public bath-houses, in Nuremberg twelve, in Frankfort at least fifteen, and in Vienna twenty-nine. Every market, borough, and village was provided with its public bath-house. It was the custom for the labourers every Saturday to go and take a bath, hence the custom of the journeymen leaving off work earlier than usual on Saturday evening; and several guilds had a special fund for 'bath-money,' [1] to which the members were entitled on the completion of their task. According to the city records of Ratisbon no *pourboire* was allowed except as 'bath-money.' We also find 'a small sum for bathing' often exacted by

[1] The word *Badegeld* was used in the same sense as *pourboire*. Just as men now bet or play for a glass of beer, they formerly did for the price of a bath. Kriegk, p. 12.

the apprentices. 'And they must use well this money which they receive, for every labourer, whatever be his age, must keep himself clean in body, which cleanliness also ministers to the soul's good.'

Another proof of the care bestowed on the cleanliness of the poor was a provision by which the Mayor of Frankfort received every Saturday a quantity of pennies, which he gave to each poor person on entering the public bath-room.

Charitable bequests were made for the purpose of furnishing a certain number of baths to the poor on the anniversary of the death of the benefactor. These bequests were called 'soul baths,' because those refreshed by them, and by the meal given after them, were supposed to offer up prayers for the soul of their benefactor. In accordance with the conditions of one of these legacies at Erfurt, 'Three troughs filled with wine and biscuit should stand by the bath-house.' 'Hundreds and thousands flocked thither with their vessels, into which they ladled out the wine.' Several of the 'soul-bath' foundations required that the poor should bathe four times in the year, while others, again, provided for their bathing every eight or fourteen days. In the beginning of the sixteenth century these foundations had so greatly multiplied in Nuremberg that the authorities decided to devote some of their funds to other charities. The school ordinance of Nabburg decreed in 1480 that the children should be taken to the baths in the middle of the week, because on Saturday they were monopolised by adults. Neither were the poor excluded from the benefits of the mineral waters. We find written in a chronicle of 1488: 'From the most ancient times the sick poor were allowed free

entrance to the baths of Baden-Baden for the love of God.'

Besides the public bath-houses many private residences had *Hausbadestüblein* for the use of the household and house tenants. In the year 1489 there were as many as one hundred and sixty-eight such places. The 'bath-linen' formed a very important item in the outfit of every respectable labourer's wife. 'A Christian Admonition' says: 'Baths in the house are very preferable to the public establishments, where many go for health or pleasure, and where many scandals occur. The latter kind are unnecessary for the healthy, but not so the former, in order to preserve health, to cleanse the body after work, and to refresh the spirit.'

By means of these guilds of masters and workmen the industrial population of the towns was united in a compact and self-governing organisation. Each artisan or tradesman considered himself a living member of a joint whole, the honour and prosperity of which was as dear to him as the honour and prosperity of the city is to the citizen; happy and satisfied within the limits of his position, respecting himself and his condition in life, he was secure against the sullen envy which looks with suspicion and hatred on those in higher stations of society. He considered himself in his position no whit below those who were of nobler birth or more influential status, for he regarded his trade as the ordinance of God, and just as necessary to the welfare of the State as the offices of emperor, pope, or prince. 'Whoever has become a master in his trade,' says 'A Christian Admonition,' 'his honour is equal to the highest honour a

man can attain.' The conferring of 'master's rights' was to the tradesman what ordination was to the priest, the accolade to the knight, or his doctor's degree to the scholar. His 'mastership' was to him a high office, and to make himself worthy of it he bent all his energies; his badge was to him his coat of arms; there was an individuality even in the exterior of his dwelling, and all who were employed by him were 'of his house.'

This fellowship of work and community of property among the corporations protected the artisan and his labour rights; it secured employment to each trade, thus heightening its social position; while it prevented the individual from unduly surpassing his fellows, a practice which, no doubt, creates large fortunes for the few, but oppresses the many.

A special class of 'brotherhoods' was formed by the guilds of the miners, who from an early date combined in associations similar to those of the town artisans.[1] The German law was very explicit in its edicts for the protection of the rights of miners. The Ordinance of Kuttenberg is a good summary of the legislative measures in this direction. It says: 'Everyone should be proud of his work, and no one shall be suffered to appropriate idly what another has created by industry and labour, for labour and effort shall be protected by the law.' Efforts were made to prevent the proprietors usurping the authority of 'lords of labour,' or having the power to take advantage of the

[1] See H. Achenbach, *Gemeines deutsches Bergrecht*, i. 69, 109. 'No politician or Socialist of modern times can suggest a labour organisation which will better accomplish the objects of helping the labourer, elevating his position, and maintaining fair relations between the employer and the employed, than that of the mining industry centuries ago.'

miners: 'the prosperity of the mining interests and of the working miners should go hand in hand.' The mining police had charge of the hygienic condition of the mines, and it was their business to see that the pits were properly ventilated, that every precaution against accidents was taken, and that the necessary bathing houses were established. It devolved on every master to see that the district over which he presided was supplied with the necessaries of life in sufficient quantities and at fair prices. The time of labour was definitely fixed—generally eight hours a day, sometimes less. Wages were under the control of the mining authorities, and never subject to sudden rise or fall; they were graduated equally through the whole mining district, and no employer was allowed to offer higher wages than his neighbour. In an old mining chronicle we read: 'Every mine manager shall take care that the miners are equally paid, and have enough to assure them a comfortable subsistence, so that want may not tempt them to steal; where labourers and servants are not properly paid, you must expect dishonesty.' The sick and feeble, and those disabled from work, were provided for out of the common fund, which was managed by the foreman of the miners' association; the widows and orphans of the miners also received their 'aid money, not as a charity, but as a voluntary gift.'

Mining is an essentially German art, and the German methods have been copied by all other nations. In the Bohemian mines Germans were principally employed. It was a German who discovered the veins of ore in Scotland, and taught the Scotch the science of mining. In the year 1452 the King of England imported miners from Weissen, Austria, and Bohemia to work the royal

mines. There must have been many Germans employed in the French mines, for we can trace most of their technical expressions to German origin.

In Germany, in the course of the century, the mining industry converted bleak mountain passes into smiling vales and populous towns, enriching both prince and people.[1] It was looked upon as a God-sent, honourable occupation, and as 'one of the most precious gifts bestowed on Germany, not alone because of the gold, silver, copper, lead, quicksilver, and iron, but because of the prosperity it brought to hundreds and thousands of the German people.' 'Agriculture and mining,' says George Agricola, 'are doubly precious, because they enrich many without injuring anyone. War, even when justifiable, often confers benefits at the expense of the innocent; capitalists and merchants excite jealousy by reaping riches from exorbitant charges. From well-directed agriculture we gather in rich fruits, and richer still from the mining industry.'

In 1458 Æneas Sylvius, writing of the then wealth of Germany, says: 'Veins of gold and silver are still being discovered; in Bohemia, the mines of Mount Kulten; in Saxony, the mines of Mount Rammel; in Meissen, the mines of Freiberg, the mines of Geci, and

[1] On mining cities see Mosch, *Zur Geschichte des Bergbaues in Deutschland*, ii. 223. 'When, in 1471, the rich mines of Schneeberg in Saxony were discovered, the town of the same name sprang into existence as if by enchantment. The surrounding country reaped rich harvests from the influx of miners. The working of the Bohemian mine Joachimsthal, in 1516, was followed by the same results. It is asserted that they employed eight thousand miners.' Such wonderful increase of population is only equalled by the growth of cities in California and Nevada. But in Germany, owing to wise and energetic legislation for communal life in these 'mushroom' cities, and by the introduction of the guild-system among the mining population, a well-organised state of things was brought about in a comparatively short time in these new industrial marts.

of Schneeberg give evidences of gold and silver. The Dukes of Austria work silver mines in the valleys of the Tun and Ems near St. Leonards. Gold-dust sparkles in the waters of the Rhine ; there are rivers in Bohemia in which the Taborites find lumps of gold the size of peas. Iron, copper, and brass also are to be found in Germany, with gold in large quantities in Hungary.'

The silver mines discovered in the Erzgebirge in 1471 were among the richest in Germany. During the first thirty years they yielded 352,000 quintals of ore. The mining syndic had tables and chairs made of the raw material. In 1477 Duke Albert of Meissen ate off a table of this sort weighing four hundred quintals. The miners were frequently paid in bars of ore instead of coin. From 1490 to 1500 the net proceeds from the mines of Glashutte and Schreckenberg, in the southern portion of the Erzgebirge, were 24,834 Rhenish florins. After the year 1458 from five to six quintals of tin were annually smelted from the tin mines of Altenburg. The net profits from the silver mines of Annaberg from 1496 to 1499 were at least 125,000 thalers ; in 1505 they rose to 400,000 ; and in 1504 the miners earned 10,000 species-thalers.[1]

The mines in the territory of Mansfield were equally productive. A chronicle of the times says : ' The Counts of Mansfield have on their estates a remarkable slate-quarry, the slate from which contains copper that is worth from twenty to twenty-four *Loth* silver per quintal.[2] The mines seem inexhaustible, for wherever

[1] Gmelin, pp. 302–304 and 351–352. At the same time Saxony derived an immense income from the saltworks of Halle and Goslar. Fischer, ii. 484. A species-thaler was about 4*s.* 2*d.*

[2] A *Loth Silber* in the fifteenth century was about 3*d.*

the men dig, slate is found. In poor years the yield is from 8,000 to 15,000 quintals, in the better years from 18,000 to 30,000.'

The Bohemian ore was so productive that in the region of Bergreichenstein alone three hundred and fifty gold mills were kept busy, and yet they were not nearly so rich as the gold mines of the Riesengeberg district.

In the course of two hundred years over forty millions of gold and silver were coined from the mines of Salzburg. The country of the Tyrol also was rich in gold and silver; the banks of the river Adige were looked on in Upper Germany as an inexhaustible source of gold. The Austrian royal family derived an income of 300,000 gold florins from the mines of Schwaz alone, and in 1493, 840 000 silver marks were coined from the same mines.

Æneas Sylvius writes: 'We may judge of the profit which the Germans derived from their mines by studying their furniture, the luxury of their clothing, and the silver utensils of their tables.' He inquired of Martin Mayer, chancellor of Mayence, 'How is it that in your inns you always serve drinks in silver vessels? Where is the woman (I do not speak of the nobility, but of the *bourgeoisie*) who does not glitter with gold? What profusion of gold and pearls, ornaments, reliquaries! What shall I say of the chains of the knights and of the bits of their horses, which are of pure gold, of their rings, girdles, and helmets, blazing in gold, of the spears and sheaths studded with precious stones! What riches are displayed in your altar decorations! How beautiful are the reliquaries, set in pearls and gold! How magnificent your priests' vestments! What riches in your sacristies!' Wimpheling writes: 'It was not an

uncommon thing to eat off gold and silver plates at the merchants' tables, as I myself did in company with eleven other guests in the city of Cologne.' 'The German merchants established in foreign cities bring with them pieces of gold and silver furniture, weighing from thirty to one hundred pounds, which they take great pride in exhibiting to strangers.' This recalls the description which the Nuremberg physician Hieronymus Jacob Münzer gives of his reception by some German merchants, settled in Barcelona, 1494. 'Our rich merchants,' says Wimpheling, 'circulate the gold and silver of our country all over Europe.' In one of the chronicles of 1493 we read: 'Germany is rich and powerful through her commerce and industry. In mineral wealth she is second to no country on earth; for all nations, Italian, French, Spanish, and others, get nearly all their silver from Germany.' [1]

[1] England imported silver from North Germany; Denmark and Sweden from the Hanseatic cities nearest to them. Fischer writes (ii. 489): 'If we consider that all records of many rich mines which are known to have existed are lost, that those of such invaluable mines as Freyberg, Annaberg, Marienberg, Zellerfeld, Wildemann, Klausthal, Stolberg, and Mansfield are very imperfect, and that in the case of most of them all information concerning the earliest dates is wanting, we shall not hesitate to assert that Germany was formerly the Mexico and Peru of Europe.'

CHAPTER III

COMMERCE AND CAPITAL

Side by side with the artisan guilds there were also guilds of merchants, organised on the same plan as the former, and having precisely similar objects in view with respect to the communal life of their members and their moral and religious well-being. But they differed in their attitude towards trade; for while the chief object of the artisan guilds was the protection and improvement of the different trades, the merchants' guilds aimed at securing commercial advantages for their members, and obtaining the monopoly of the trade of some country or some particular class of goods.

Not alone in the German cities, but in all foreign countries also where German commerce prevailed, corporations of this sort, guilds or *Hanses*,[1] had existed from an early date, and had obtained recognition, privileges, and rights from the foreign rulers and communities.

By degrees these Hanses in foreign cities became banded together in one large association, forming an independent, important, and rival commercial body in the midst of the native merchants and traders. Such was the case in London, for instance, where the

[1] The word Hansa (having the same signification as guild) was first used in England to designate certain commercial associations. Sartorius, *Gesch. der deutschen Hansa*, i. 73–75. It is also found in Ulfilas, signifying *Cohors* or *Multitudo*; Maurer, *Städteverfassung*, ii. 254, note 1.

merchants who had come from Cologne, Hamburg, Lübeck, and other cities, formed an 'association of German merchants.' Each association was independent, but its duties and rights were decided and protected by a general union, which entered into contracts with different cities, and held itself responsible for the maintenance of the guild rights. In the general guild-hall an alderman and the members of the council drew up the constitutions of the corporation, and submitted them to the members at the general meeting. The guild-house stood in a fenced square which contained the dwellings, the shops, and booths of the members. The whole enclosure bore the name of the *Stahlhof*, and was given to the German guilds by the King in 1474. The *Gesammt-Hanse* had quite extensive powers of jurisdiction and of punishment, and enforced stringent regulations. Out of the common fund, which was made up from the various fees of membership and fines, the wages of officials were paid, presents and premiums given, and the general expenses met. The members led a kind of monastic life, and were bound together by a very strong religious feeling.

Some documents with reference to the *Hansa* of Bergen, in Norway, give us a clear insight into this kind of communal life. Their dwellings consisted of twenty-one independent courts, which formed two vestries; these courts were separated from each other by solid fence-work or walls, and each one was surrounded by long, straggling wooden buildings; each one had its distinctive name and coat of arms, and those near the water had their own wharves at which the ships were unloaded. To each court belonged fifteen 'families,' or 'table companies,' consisting of master, journeymen,

and apprentices, who all lived together. Each family had a head of the house, called *Husbond*, who exercised an absolute control over the business officials, labourers, and servants, and was responsible for providing for all their wants and maintaining discipline. The interests of the united corporation were looked after by a chosen alderman. In the first floor of the long wooden buildings were the stalls and booths for exhibiting the wares, and in the second the parlours and sleeping rooms of the 'families,' the kitchen, and the family dining-room. At the back of the court there were strong stone buildings, in the lower floor of which the more valuable goods were stored, while the upper floor was used as a general dining-room and assembly room for the winter; along the walls of this room were several fireplaces, which were used for cooking by each separate 'family,' and which warmed the whole building. As protection against burglars, a night watch was established, and savage dogs were unchained and allowed to run loose round the buildings. All the daily routine of the courts was mapped out minutely, and the hours for work and for rest, for meals and for recreation; and every infringement of rules was severely punished. The number of dwellers in these establishments at the close of the fifteenth century was from two to three thousand men. No female was allowed to enter these courts. When a member married he forfeited his membership. The judicial authorities elected by the company were invested with supreme power, from which there was no appeal. Whoever wished to belong to the society was obliged to remain ten years in Bergen. The foremen were expected to have gone through every branch and position in commercial life, from apprenticeship

upwards ; and thus, in constant conflict with a stormy sea, in hard experience and work among bleak and rugged mountains, and in submission to the strictest discipline, they found here the best of commercial schools. The games and sports of the apprentices in Bergen, particularly those of Whitsuntide, called the ' water play ' and the ' scourge play,' would alone prove what an iron generation they must have been. In the ' water play ' the apprentice, after a plentiful repast, was plunged, without clothes, from a vessel into the sea ; he was dashed hither and thither in the icy waves, then drawn out half frozen, and beaten with rods until he could manage to put on his clothes. The ' scourge play ' was even worse. With much pomp and ceremony the apprentices received from ' heads of houses,' and journeymen selected for the purpose, severe whippings ; this was followed by a feast, at which they were obliged to serve everyone, their tormentors included. Preceding the flagellation, the oldest ' master of the house ' delivered a solemn exhortation recommending order, loyalty, industry, obedience, and sobriety, to the apprentices. He announced that this play was meant as a trial, and whoever felt that he could not bear it was at liberty to withdraw. The apprentices then submitted, and if anyone was compelled by fatigue or pain to sit down he was plunged next day in the sea ' to strengthen him.'

As a further means of strengthening their position, the guilds belonging to different foreign cities decided to join in one common association. In England, those of Lynn, Boston, York, Bristol, Ipswich, Norwich, Yarmouth, Hull, and other cities affiliated themselves with the London *Hansa*, and were each represented

there ; the alderman chosen to be at the head of this Hansa had consequently the general direction of all the English societies of German merchants. The powerful commercial organisation of Novgorod was organised under the same system, and, uniting all the German merchants into one society, it entered into competition with Russian commerce. In the Scandinavian countries the guilds of Wisby in the island of Gothland took the same stand, and in the Netherlands the so-called 'Komtoor,' in Bruges, did likewise. For the better administration and protection of the commercial rights this 'Komtoor' was divided into three branches, one comprising the cities of Lübeck, of the Slavonic country and of Saxony, the second those of Prussia and Westphalia, and the third those of Gothland, Livonia, and Sweden.[1] Each branch was an independent corporation, and through its selected representative exercised judicial authority. In matters of general interest the majority ruled.

This sort of confederation, divided into three parts, and calling itself 'The Society of German Merchants of the Holy Roman Empire,' was the foundation of the general German 'Hansa.'

Although the system of association had its birth in foreign countries, many cities in the north and west of Germany entered into offensive and defensive leagues for the maintenance of peace, and for the assurance of exchange and the settling of questions of justice, of taxation, and of coinage. Thus by degrees the general union of the cities of Lower Germany was formed, and their union with the corporations of foreign cities was the foundation of the renowned Hanseatic League,

[1] *German Hansa in Sweden.*

which embraced by degrees the cities of Upper Germany from Riga to the Flemish boundaries, and those in the south as far as the Thuringian forests.

The Hanseatic League, like the 'Komtoor' of Bruges, became broken up in separate sections, whose limits and headquarters changed frequently. After some time these divisions settled down into four distinct centres: the Slavonic at Lübeck, the Rhenish at Cologne, the Saxon at Brunswick, and the Prussian and Livonian at Dantzic. The cities of the Duchy of Cleves, of Westphalia, of Friesland, of Guelders, of Pomerania, and others, each formed their separate guilds.

The Hansa associations represented the German merchants in foreign countries, protected the commercial rights of the guilds and increased their privileges, secured safety on the high seas by fitting out ships against the pirates, and, in short, established by their power a court of justice for the settling of commercial questions. Enjoying unrestricted legislative control in matters of trade and merchant marine, judging and punishing within their own limits, they formed a State within the State; at the same time, they did not interfere with the Empire any more than the smaller corporations interfered with the administration of the various cities. While the Hanseatic League was quite independent of the Empire, its coat of arms proves its loyalty to it. Besides the keys of Peter on the shield of Novgorod, and besides the codfish of Bergen, there appears from the time of the fifteenth century the half double eagle; the arms of the 'Stahlhof' of London and of the 'Komtoor' of Bruges bore the entire eagle.

It was in the fifteenth century that the Hanseatic League attained the summit of its power. Its

commercial authority extended into Russia, Denmark, Norway, England, Scotland, France, Spain, and Portugal; and into the interior of Germany, Lithuania, and Poland. Russia and the Scandinavian countries were completely subject to it, in a commercial sense; and England itself, at the close of the fifteenth century, stood in the same position to Germany with regard to trade as Germany later, up till within a short time, stood to England.[1]

Among the Hanseatic towns Dantzic held universally acknowledged pre-eminence. From the commencement of the fifteenth century Dantzic was in correspondence with all the countries included in the Hanseatic shipping union, from Lisbon in the west to Novgorod and Finland in the east, and also traded with Lithuania, Poland, and Hungary. Her merchants imported from the Scandinavian countries iron, copper, furs, fish, resin, tar, and various kinds of wood, taking there in return wool, cloth, silk, velvet, metals, wheat, rye, flax, hemp, hops, oil, Rhine and Spanish wines, spices, and linen. Her ships took wood, flour, beer, and dried fish to Lisbon, and brought thence salt, cork, oil, figs, raisins, oranges, wine, and costly furs. Under the protection of the Portuguese Government the Dantzic merchants exported quantities of wood for shipbuilding. They did a large business on the west coast of France, particularly with Baie, a seaport town south of Nantes, from which, among other things, the famous Baien salt was brought; in the year 1474

[1] See Kiesselbach, *Der Gang des Welthandels*, p. 235. In England the German merchants were called 'Eastern,' to distinguish them from the Belgians and Hollanders, who were called 'Western.' The expression 'Pound sterling' comes from 'Easterling,' because for a long time the only coin in England was Hanseatic. List, *Gesammelte Schr.* iii. 37.

seventy-two Dantzic ships visited this region, and fifty-one cast anchor at one time at the mouth of the Vistula. The trade with England consisted principally in the interchange of grain and wood from the borders of the Vistula for English woollen fabrics, and was very extensive. Frequently in the course of the year from six to seven hundred ships laden with grain were sent to England. From Scotland the ships of Dantzic brought wool and furs. To Flanders they took different woods, and brought home, from Bruges particularly, many kinds of manufactured goods. The extent of the trade between Dantzic and Holland may be estimated from the fact that in the year 1481 alone no less than 1,100 Dantzic vessels, large and small, carried wheat thither; and within the six years from September 1441 to May 1447, the Hollanders in Dantzic paid in poundage dues more than 120,000,000 thalers, *i.e.* according to the present value of money. The ships were divided into flotillas of from thirty to forty vessels each, and each of these flotillas had armed ships, called *Orlogschiffe* or *Friedenskoggen*, attached to it for its protection.

The strictest discipline reigned in the Hanseatic fleets. When a vessel had put out to sea the captain assembled the sailors and passengers, and addressed them somewhat as follows:—'We are in the hands of God. We are exposed to the winds and waves, sharing the same perils; so we are all equal. We may have to confront hurricanes or pirates. Innumerable dangers surround us; therefore strict discipline is necessary. Let us commence with prayer, and sing canticles unto God, to obtain a fair wind and a prosperous voyage.' After this, with the general consent, a bailiff, four officers, and a judge, invested with full right to punish,

were selected, and maritime law was established. Swearing was forbidden. No one was to use the devil's name, to neglect prayer, to go about the ship with lights, to waste food, to encroach on the rights of the store-keeper, to play dice or cards after sunset, to irritate the cook, to interfere with the sailors ; all infringements of these regulations were to be punished by fine. Severe corporal punishment was decreed for sleeping while on guard, making a disturbance on board, using arms, or for any other misdemeanour. At the end of the passage the judge and other authorities summoned all on board and the former gave up his jurisdiction with the words, ' Let us mutually forgive any unpleasantness that may have happened during the passage, and let it be as dead and buried. Our judgments have been passed with a sense of justice and right ; therefore I beg all to lay aside enmity, and to swear by bread and salt not to harbour ill-feeling. If anyone thinks, however, that he has a grievance, he must make complaint, according to ancient usage, to the land authorities, and demand judgment before sunset.' Each one then ate bread and salt as a sign of friendship, and as soon as the vessel was anchored the purse containing any fines which had been exacted during the voyage was handed to the authorities to be divided among the poor.

In size the Dantzic vessels varied from forty to twelve hundred tons burden. The ship ' Peter von Dantzic ' was laden in 1474 with 2,250 tons of salt, and had sometimes four hundred sailors. Being provided with strong, sometimes even double, forecastles, the larger vessels could be used as well for war as for trading. Assiduously utilising the wealth of wood supplied by the forest-lands in its rear, Dantzic attained distinguished

eminence in the shipbuilding industry. There was as great demand for the vessels built in this harbour as for all the shipbuilding materials, whether raw or manufactured, exported thence.

Most of the foreign trading of Dantzic was carried on in conjunction with the merchants of Lübeck, or at any rate with the co-operation of Lübeck, which city owed a great deal of its commercial success to its monopoly of trade with Riga, Reval, Dorpat, Novgorod, and other Russian settlements. It was through the Lübeck shippers that the produce of Russia, the exportations of Poland and Lithuania, consisting of ebony, wood, tar, fine and coarse furs, leather and skins, wax, honey, grease, meat, grain, and flax were brought to the West and the works of art and culture of Germany, England, and Flanders introduced into the former countries. The famous Lübeck beer was sent into all the northern States, and the commercial prosperity of Lübeck increased continually owing to the fact that it was on the direct route for all the travellers and merchants who, up to the sixteenth century, visited Livonia annually. In 1458 Æneas Sylvius wrote : ' Lübeck has become so rich and powerful that Denmark, Sweden, and Norway elect and depose their kings at her pleasure.'

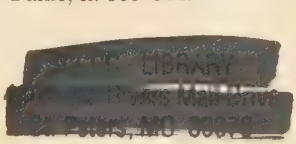
The commerce of Breslau was also very considerable. By its trade route to Vienna and Presburg it established communication between the Baltic and Danube ; and by its route through Bohemia and Saxony, past Prague and Dresden to Leipsic, it connected the district of the Upper Elbe and the routes coming down from Upper Germany with the Oder, and thus gained, with Stettin, a commanding commercial position in the whole district of the Oder.

The Saxon, the Rhenish, and the north and south German towns were not behindhand in commercial importance. Wimpheling writes: 'Cologne is the queen of the Rhine through its riches and extensive commerce. What shall I say of Nuremberg, which holds commercial relations with almost all the cities of Europe, sending abroad its priceless works of gold, silver, copper, bronze, wood, and stone? It is difficult to estimate its wealth; and the same may be said of Augsburg. Ulm, which is much less important than these cities, estimates its annual trade revenue at over half a million florins.' The Alsatian towns, particularly Strasburg, were very prosperous.[1]

Through Strasburg, Colmar, and the smaller Alsatian towns, also through Basle, Geneva, and Constance, Germany extended her commerce into the interior of France, and through Marseilles as far as the shores of the Mediterranean; from the north it followed the course of the Rhine; on the north-east, through middle Germany, it penetrated the Elbe country to the Baltic; from the east, through the towns of Franconia and Suabia, it commanded the trade of the Danube, and on the south, crossing the Alps, it reached Geneva, Milan, Venice, Lucca, and Florence. Finally, passing the Swiss and Tyrolean Alps, the merchants of Northern Germany were the connecting link between Southern Europe, the north-east of the Empire, and the Slav population.

In order to facilitate communication a regular messenger service was established between many of

[1] At the close of his treatise *De Arte impressoria*, in 1507, Vettori wrote of Strasburg: 'Argentina ha tanto d'entrata, che dicono aver congregato in communità molte centinaja di migliaja di fiorini.' Erasmus said that Strasburg was so rich it ought to be called 'Aurata,' golden city, instead of 'Argentoratus,' silver city. See also Falke, ii. 363-364.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the cities. In Dantzic, for instance, messengers were appointed to deliver letters to any travelling merchants, as well as to those who resided there. In the fourteenth century there was a regular post service in Augsburg and Vienna carried on by ' post-boys ' appointed by the mayor, and forming a guild among themselves.[1]

The trade of Germany with Venice was very extensive. The German mercantile house established there the so-called ' Fondaco,' or Fontego,[2] which from the time of its restoration in 1505 may be compared for extent to the Hanseatic warehouse at Antwerp, contained, besides its stores and booths, the dwelling-houses, residences for the German merchants, and an inn for German travellers and pilgrims. When the Germanic-Venetian commerce was at its height, in the fifteenth century, there were often a hundred German merchants to be found at one time in this inn. In his account of his pilgrimage in the year 1497 the knight Arnold von Harff wrote : ' I saw there merchandise of all kinds exported every day in all directions ; the merchants from the different cities of Strasburg, Nuremberg, Augsburg, Cologne, and the other German cities had their respective booths. I was told that the city derived a daily profit of a hundred ducats[3] as tithes on the goods bought and sold there.' In the year 1484 Felix Fabri of Ulm estimated that the duty on wares sent to Germany from Venice amounted to twenty

[1] Greiff, *Tagebuch von Lucas Rem*, p. 77. In 1444 three of these messengers were murdered, one from Dantzic, one from Thorn, and one from Bruges ; Hirsch, *Danzigs Handelgesch.* p. 221. In many cities of Southern Germany the carriage of letters was confided to the butchers. The arrival and departure of the postal messengers was announced by the blowing of horns, hence we find a horn in the coat of arms of the butcher guild. See Flegler, *Zur Gesch. der Posten* (Nürnberg, 1858), p. 28.

[2] It is still to be seen near the Rialto. [3] In customs and taxes.

thousand ducats, and much merchandise was smuggled from there. The Italian traveller Pietro Casola wrote: 'The Fondaco at Venice is so rich in merchandise that it might well supply the necessities of the whole of Italy.' In the year 1511 the Italian Sanuto reported that in the month of January the Germans had purchased spices, sugar, and other goods to the amount of 140,000 florins. The principal exportations to Germany were spices, Mediterranean fruits, pepper, silk by the piece and silk coverlets, costly cloth of gold stuffs, glass; the importations from Germany consisted of iron, copper, lead, tin, gold and silver, leather, horns, woollen goods, linen, and all kinds of fur, which found a ready market in Venice and all over Italy.

Ratisbon, Augsburg, Ulm, Nuremberg, and Lübeck were the principal cities trading between Germany and Venice. Up to the sixteenth century, when trade visibly declined, Augsburg used to send her young business men to Venice as to the best of schools of commerce; the Fuggers, Welsers, Baumgartners, Herwarts, Rem, and others had branches there.[1]

It was not separate cities only that sought to extend the commerce of the 'Holy Empire' to the Mediterranean, and thence to the north and east of Europe. The whole collective burgher-world of Upper Germany, all the frontier towns of France beyond the Upper Rhine, from the Vosges along the Main and Danube as far as the Hungarian boundaries, joined with equal zeal and persistence in this enterprise. The inhabitants of Upper Germany, of Alsatia, and of Constance,

[1] The journal of Lucas Rem, published by Greiff, and dating from 1494, gives not only a brilliant description of Augsburg, but of the style of living of the German merchants and of the prosperity of Nuremberg.

as well as the Bavarians, Suabians, and Franconians, carried on a lively trade with Italy and the Levant, which was a great source of profit and of improvement to them. Up to the close of the fifteenth century Germany was the great centre of universal commerce, and the great market for the products both of nature and of art. Through the Hanseatic League it commanded trade with the North and Baltic Seas, and moreover, being the route to the Alpine passes, it was the highway to the principal marts of the Mediterranean trade. In the year 1495 Jerome Münzer wrote : 'Merchants from the Netherlands, Flanders, England, Poland, Bohemia, Italy, and France come to the Frankfort Fair and do a large business.' In the year 1519 Francis I. of France called Frankfort the first business city not only of Germany, but almost of the whole world. The profits from the fairs was one of the principal sources of income for the city. For the protection of foreign merchants on their road thither and back the municipality organised an escort, consisting of from sixteen to one hundred arquebusiers, according to the danger to be apprehended on the road. In 1464 one hundred and eleven men, in a uniform of black and white linen jackets, with red, black, and white tassels on the left arm, escorted the Limburger merchants home. The fees which the travelling merchants were obliged to pay the various landed proprietors for a safe escort through their dominions, together with the numerous tolls, were part of the many 'grievous and expensive plagues' of mediæval commerce, and its flourishing condition seems all the more noteworthy in view of these and other hindrances to its development.

By the discovery of a sea route to the East Indies

the principal stream of the world's commerce, which connected Asia and Europe, was transferred from the middle of Europe to the ocean westwards, with the result that Germany's position relative to the world's commerce was materially altered. But this was by no means the first and only cause of the commercial decline which befell the South German cities. On the contrary, so long as Portugal held the trade in her hands, this change had a stimulating and developing influence on the southern cities. The merchants of South Germany, especially of Nuremberg and Augsburg, quickly recognised that by reason of their central position in Europe four roads were now open to them for commerce with Asia—namely, the old ways through Venice and Geneva, the long-frequented route past Antwerp and round the western shores of Europe, and the route through Lisbon ; this latter they made use of almost immediately after the discovery of the new route. The North Germans took a lively interest in the Portuguese discovery, and the ' Hansa ' sent many of their vessels by the new route ; Vasco da Gama was assisted by a German in his first voyage to the Indies. In 1503 the Welsers and other merchants of Augsburg and other German cities founded a commercial establishment at Lisbon, and obtained from the king, Dom Emanuel, on the payment of taxes, the right to erect warehouses both within and without the city walls. Among the privileges which were accorded by this king to the German merchants, and which, indeed, exceeded those given to his own subjects, we may specially mention the right of precedence in Indian commerce. All spices, Brazilian woods, and other goods coming from India or the newly discovered islands could be bought from

them and transported free of duty. Further, the German company were authorised to use vessels of all sizes built in the country with the same privileges as the Portuguese, or to use their own ships provided they were manned with Portuguese sailors. By a charter of October 3, 1504, German merchants resident in Portugal were allowed to establish their own court of justice. The Welsers and their company received permission to join in the expedition to India, and to send some of their merchant ships with the royal fleet. Conrad Peutinger, in writing to the royal secretary Blasius Holz (January 3, 1505), says, 'It is a great honour for the Germans to have taken part in the first Indian expedition.' Of the three German ships which accompanied that expedition under the command of the viceroy, Francisco de Almeida (1505), two were among the largest of the fleet. On November 15, 1506, the expedition returned to Lisbon, when Balthasar Sprenger, one of the company, wrote: 'And thus the journey was ended in the name of God, to whom be all the honour and glory for ever and ever.' The fitting out of this expedition cost 66,000 florins, but those who had organised it made a profit of 175 per cent.

In 1497 the French traveller, Pierre de Froissart, wrote: 'The enterprise and courage of the German merchants is truly marvellous; they possess a genius for increasing their riches, as is unmistakably shown by the prosperity of their cities, the magnificence of their public buildings, and the beauty and luxury of their homes. It is a pleasure to visit their cities and to take part in the public amusements of the people.' When about sixty years earlier, in 1438, the Russian Metropolitan Isidor, with a suite of more than one

hundred persons, lay and ecclesiastic, passed through Lübeck, Luneburg, Brunswick, Erfurt, Nuremberg, and other cities on his way to attend the Council of Florence, 'he was completely amazed,' as one of his companions reported, 'at the prosperous cities, with their large, beautiful, roomy houses, their fruitful gardens and wide canals, the wealth and magnificence of the churches and monasteries, the advanced position of mechanical industry and art; the dignity of the magistrates, the independence of the citizens, and the chivalry of the nobles, all caused the greatest astonishment to the Russian visitors and filled them with wildest enthusiasm. Erfurt seemed to them the richest of German cities, for it contained so many precious works of art and was so full of business.'

The Italian Æneas Sylvius expressed like admiration in the year 1458: 'We proclaim it aloud, Germany has never been richer or more prosperous than to-day. The German nation takes the lead of all others in wealth and power, and one can say with truth that God has favoured this land beyond all others. On all sides one sees cultivated plains, cornfields, vineyards, flower and vegetable gardens in town and country; everywhere noble buildings, walled cities, well-to-do farmsteads in the plains and valleys, castles on the mountain heights, &c., &c. Wherever we go we see evidences of the might of the people and the beauty of the country. Where in all Europe shall we find a more magnificent city than Cologne, with its beautiful churches, its halls of state, its lordly towers and lead-roofed buildings, its wealthy inhabitants, its noble river, its rich and fertile plains? As we proceed we come to the populous towns of Ghent and Bruges, the

commercial marts of the West, where, notwithstanding that French rule seems to prevail, we still find German speech and customs. Further on rise the fair cities of Brabant, Brussels, Mechlin, Antwerp, and Louvain. Returning to the Rhine we visit Mayence, an ancient town beautified by its proud public buildings and fine private houses, and renowned for its cathedral and churches; there is no fault to be found with Mayence but the narrowness of its streets. Further on, the small but picturesque town of Worms and the populous, well-built city of Spires cannot fail to please the traveller. Strasburg, with its many canals, is a second Venice, a healthier and more exhilarating one into the bargain, for its aqueous streets are sweet and pure, while those of Venice are salt and malodorous. Besides its cathedral, a wonder of architectural art, it possesses many other striking churches and monasteries. Many of the houses belonging to ecclesiastics and citizens are so beautiful that no king would be ashamed to live in them. In Basle the churches and the private houses are roofed with very beautiful tinted slates which reflect the sun's rays. The houses of the burghers, surrounded with courts and gardens ornamented with fountains, are painted outside in shining white. Bern is so powerful that it could easily put twenty thousand men in the field. Augsburg surpasses all other cities in point of wealth, and Munich is very flourishing. In Austria, Vienna is the most remarkable city; her royal palaces and churches command the admiration of Italy. Art and language fail us to give an adequate idea of the impression made by the Church of St. Stephen. Some ambassadors from Bosnia after contemplating its tower for a long time exclaimed in admiration: "It

cost more than could be got for the whole kingdom of Bosnia." '

In another place Æneas Sylvius, speaking of Vienna, says: 'The houses of the burghers are roomy and richly decorated, built of freestone, with high, stately façades, painted within and without. The doors are mostly sheeted with iron and the windows glazed; they look like princely palaces.' 'It is impossible to pass Nuremberg by unnoticed; when, on approaching it from Lower Franconia, one first sees it in the distance, it presents a majestic appearance, which is more than verified on entering its gates by the beauty of its houses and the cleanliness of its streets; the churches of St. Sebald and St. Lawrence are magnificent and imposing; the imperial castle looks down in its pride and strength, and the houses of the burghers are built in princely style. Truly the kings of Scotland would have wished to be as well housed as the simple burghers of Nuremberg. . . . Without exaggeration it may be said that no country in Europe has better and more beautiful cities than Germany; they look as fresh and new as if they had been built but yesterday, and in no other cities is so much true freedom to be found. The inhabitants of the so-called free States of Italy are really bondsmen; in Venice, Florence, and Sienna even the burghers, with the exception of the few who are connected with the government, are treated like slaves; they do not dare use their own property as they please, nor to speak as they think, and they are subject to the most onerous taxation. Among the Germans all are free and joyous, none are deprived of their rights, each one keeps his inheritance to himself, and the government interferes only with those who annoy others.'

Fifty years later James Wimpheling boasts that 'Germany was never more prosperous than she is in our day, and she owes it chiefly to the untiring industry and energy of her citizens—artisans as well as merchants. The peasants, too, are rich and prosperous. In every direction during the last century and more there have risen imposing churches and magnificent public buildings, and, what is more praiseworthy still, benevolent institutions for the poor and the sick show a steady increase, and are richly endowed.'

'But wealth and prosperity,' continues Wimpheling, showing the reverse of the medal, 'are attended with great dangers, as we see daily exemplified; they induce extravagance in dress, luxury in banqueting, and, what is even worse, they engender a desire for still more. This desire debases the mind of man, and degenerates into contempt for God, His Church, and His commandments. These evils are to be perceived in all classes; luxury has crept in among the clergy, particularly among those who are of noble birth; they have no real love for souls, and they try to equal the rich merchants in their mode of living. Those who are the least affected by this growing spirit of luxury are the working class and the peasants, who continue to live in the simple style of their fathers; also those pastors in both city and country parishes who occupy themselves with the welfare of their flocks—and, God be thanked! there are many such—also those members of religious orders who remain true to the rules of their order and have few worldly possessions. This besetting sin of the age is chiefly to be found in those cities where commerce is pursued to excess, with the result of over great and too easily acquired profits, and of continual multiplication

of artificial wants among the people. Great prosperity is sometimes a questionable benefit, particularly when it ministers to extravagant dressing and luxurious living.' [1]

'A Christian Admonition' also says: 'Business is not without its attendant evils. Commerce, in itself, is honourable and necessary, being the means of satisfying the wants of men in clothing, nourishment, and shelter, which cannot be dispensed with; but it is otherwise with those things which encourage luxury, extravagance, and evil customs, of which we see so much in city and country that I fear the judgment of God on such foolishness. It is incredible how silly and how capricious the fashions have become, and what extravagant clothing men and women hang on their perishable bodies.'

Extravagance in dress was indeed extreme at the time of which we write. Not only the patricians and the city dignitaries, but men and women of the middle classes, wore pearls on their hats, doublets, and cloaks, gold rings on their fingers; they used swords, knives, and belts embossed with silver, and often even belts of pure gold or silver; their clothing was embroidered with gold and silver and made of velvet, brocade, and satin; they wore rich silk-plaited shirts with galloon borderings, coats and mantles were trimmed with sable, ermine, and marten. The burghers' wives and daughters entwined pure gold in their back hair and curls, covered themselves with chains and pearls, and wore crowns of gold or gold-embroidered hoods on their heads. Their dresses of velvet, damask, and satin, embroidered with gold and pearls, were more expensive than those of the

[1] At the close of *De Arte impressoria*.

men—gold-embroidered smocks were considered the 'indispensable dress of a distinguished woman.'

In the year 1485 the Council of Ratisbon, wishing to lessen the growing extravagance, made the following rules with regard to dress: 'The distinguished wives and daughters of burghers shall be allowed eight dresses, six long cloaks, three dancing dresses, and one plaited mantle having three sets of sleeves, of velvet, brocade, or silk; two pearl hair bands not costing more than twelve florins, a tiara of gold and pearls worth five florins, not more than three veils costing eight florins each, a clasp not having more than one ounce of gold; silk fringe to their dresses, but not gold or pearl; a pearl necklace not costing more than five florins, a pearl stomacher worth twelve florins, two rows of pearls around the sleeves at five florins per ounce, a gold chain and pendant worth fifteen florins, and a necklace for twenty florins.' Except the engagement or marriage ring, none were permitted costing more than twenty-four florins. Three or four rosaries were allowed, but they were not to cost more than ten florins; sashes of silk and embroidery were not to exceed three florins.

Geiler von Kaisersberg reported that many women wore at one time clothing worth from three to four hundred florins, and had in their closets adornments for their bodies costing more than three and four thousand florins—an extravagant sum at the then value of gold. He complains further: 'We see women letting their hair hang down their backs in cues like men, and wearing bonnets with cock's feathers on their head. What a shame and a sin! Do you not see that there is no one without donkey ears on his head? Do you not see the silver jewels on the bonnets? It is a scandal that

the women wear hats with ears and the men hoods of silk and gold. Do you not see that the women surround their heads with aureoles like the saints in the churches ? Their whole bodies are full of folly, under the belt, over the belt, inside and outside ; their smocks are elegantly plaited, the name of their fashions is legion. At one moment sleeves are wide like those of monks, at another so tight that they can hardly be pulled on. The authorities ought to forbid the abominably short dresses which are worn. Look at the belts which encircle their waists : sometimes they are of silk, sometimes of gold, sometimes so costly that the jeweller charges from forty to fifty florins for making them. They drag long trains in the dust without thinking of the nakedness of Christ among His poor. Some have so many dresses that during the week they have two for each day, morning and afternoon ; they have others again for dancing, and they would rather see them eaten up by moths than give what they cost to the poor. The women are not singular in letting their trains drag in the dust, there are priests and prelates who do the same.'

In early times sable and ermine were worn only by the nobles ; now the wives of the burghers cannot dispense with them, as we see from the following popular song :

Die Weiber sind mit veh beschnitten,
Gezieret wol nach edlen sitten,
Wer kann sie unterscheiden ?
Es stund vil bass vor alter zeit,
Da Fuchsen war ihr bestes kleid.

The women now are clothed in fur,
They are dressed in nobles' robes—
Who can tell the difference ?
It was much better in olden times,
When the foxes' fur was their best dress.

'They paint themselves many times in the day, and have false teeth and hair. O woman! are you not fearful,' says Heiler, 'with the hair of strangers on your heads, maybe that of some dead woman, to the injury of your souls?'

With the same zeal the popular preacher of Strasburg addresses those effeminate men who perfume themselves with rose-water and use cosmetics. 'And often these young fops, particularly the sons of merchants, who think themselves something because their fathers have made fortunes, and who idle all day in the hotels or strut about in the streets, are more foolish than the women. Do you not see how they curl and dye their hair and paint their faces?' Sebastian Brant on the same subject says in the 'Narrenschiff': 'They paint themselves with monkey-grease, they puff their hair with sulphur and resin, and stiffen it with white of egg into set forms.' 'See the trousers,' says Geiler in another place: 'they are divided off like a chess-board, and the making of them costs more than the material. All these fashions come to us from Italy and France; they are a shame to Germans, who, though the best people in the world, allow themselves to fall into the follies of other nations, and to be made monkeys of by foreign tailors.' He holds the merchants responsible for all this extravagance in dress. 'The merchants and travellers have brought us from foreign lands such strange ways, such flaunting clothes, such crazy inventions. They are fools when they leave us, and even greater fools when they return, and they find no end of fools to imitate them.'

Johannes Butzbach tells us in his diary of his apprenticeship to a tailor in Aschaffenburg: 'We were

obliged to make the simplest garments out of various coloured cloths, and, like artists, to embroider on this cloth clouds, stars, blue skies, lightning, hail, &c., such endless devices did the gay Court life and foolish fashions invent. The most costly stuffs were used for these garments: English tan colour, scarlet, woollen cloth from Rouen, Grenoble, Bruges, Ghent, Aix-la-Chapelle, and other expensive goods.'

Fashions changed constantly, and the styles of foreign nations were followed. 'One need only to come to Strasburg,' says Geiler, 'in order to see how the Hungarians, the Bohemians, the French, the Italians, and the people of all nations dress.' Conrad Celtes in his description of life in Nuremberg says: 'The fashions in clothing change continually, being influenced by the different nations with which trade is carried on. At one time the Sarmatian wide-plaited and fur-trimmed dress and turban are worn, at another a Hungarian jacket and Italian mantle prevail, to be followed by the French robe with cuffs.' Another writer of the time says: 'On festivals many of the nobility dress themselves three times in the course of a day, and each time according to the fashion of a different country.'

This luxury and extravagance in dress was the cause of the impoverishment of many of the nobles, who for some time had been drawn into the folly of the city fops. A contemporary moraliser writes: 'Extravagance in dress has impoverished the German nobility; they desire to make the same show as the rich city merchants; heretofore they were the leaders in fashion, and now they are unwilling that the wives and daughters of the merchants should excel theirs in costliness of apparel. But they cannot afford this, for

they do not derive from their estates the twentieth part of what the merchants can earn by their business and usury. They contract debts, and, falling into the hands of the usurious Jews, and the still worse Christian Jews, are obliged to sacrifice a part or all of their lands, and thus become poor because they have despised the simple habits of their ancestors. I fear all this will bring much evil to Germany.'

Again and again the complaint was made at the Diets: 'The nobles are obliged to stint themselves in food, and get deeper and deeper into debt, on account of the cost of clothing for themselves, their wives and daughters. In Germany the fashions undergo a complete change every year, while in other countries they last much longer. Extravagance leads to ruin, and the noble in debt and the bandit noble are closely allied. Many worthy daughters of nobles are debarred from marriage by the expense of the costly outfit which has become an indispensable adjunct of matrimony, and they are forced into convents against their will because their parents have not the means to dress them according to their notion of what befits their rank.'

'A Christian Admonition' says, *à propos* of the prevailing extravagance: 'The worst feature is that even in the villages the peasants and their wives are beginning to buy the most costly foreign goods, and to dress themselves in velvet and silk as if they belonged to the nobility.' Deprecation of the evil was universal. In the 'Narrenschiff' is the following passage: 'Some years ago the country people were simple; the good sense which had taken its departure from the cities seemed to have settled among them; but now all is changed: our villagers will no longer wear blouses of

plain cotton ; they must have silken clothes from London and Malines all slashed and embroidered. There is no more simplicity anywhere in the world. Every villager appears to be rolling in money, and all alike wear silken garments and golden chains.'

In one of the carnival plays we read : ' What the nobleman will think the rustic will prink.'

Matern Berler writes in his Chronicle : ' No one is contented with his condition ; the rustic apes the nobleman, and the priest is despised.'

Geiler von Kaisersberg says : ' It is a bad sign when people do not dress according to their condition. It is a sad state of things when the apprentice wishes to dress like his master, the maid like her mistress, the rustic like the nobleman. All distinctions seem to be vanishing ; the peasant is addressed as " gracious sir." This should not be allowed ; it does not become you ; it is only appropriate to princes and nobles, and instead of honouring you it lowers you. The peasant answers, however, " But why not ? I have as much money and as good clothes as those people." ' In another place he says : ' Thirty years ago, before I came here, when I lived in Ammersweyer (where I learned my A B C), there was only one man in the town who wore a short mantle, and he was the town summoner or city clerk. All wore the long coat of the ancient villagers. But now, like people in the cities, all wear the short furbelowed jacket. Vice and gluttony are now rife among the people who, thirty years ago, as I have said, lived good simple lives.' In like manner the Swiss chronicler Anselm complains in the year 1503 : ' The old, honest, simple ways have been much corrupted by the introduction of new fashions and extravagance in

dress; the peasants have begun to wear silk; and extravagance in dress brings many other evils—foreign wines, expensive delicacies, great houses, much gambling.' [1]

'In the houses of the merchants and burghers, and even of many of the peasants, are to be found all those costly and unwholesome delicacies which the merchants have imported, spices, &c., and which are used with prodigality. Living becomes more expensive year after year, and the merchants exact their own prices. Extravagance in dress is not greater than in food; at marriages or baptisms, and other such festivals, things have grown worse and worse, and all prohibitive ordinances are useless because the princes and civic authorities themselves are among the most luxurious feeders. The amount eaten and drunk at those festivities, which often last an entire week, is inconceivable. God's punishment does not seem to be dreaded by these gourmands, but I cannot help fearing that His judgment will overtake us. Taverns and gambling halls, bathing and dancing halls, are much in vogue. The rich young men, particularly the sons of our opulent merchants, bathe much and drink a great deal of wine and spirits; they even indulge in repeated baths during the day,[2] and have themselves anointed with perfumes. Shame on their effeminacy! These young fops are a scandal

[1] Anselm, iii. 247–251. After the Burgundian war luxury increased in Switzerland. Golden chains and rings were worn; the latter not alone on the fingers, but also on the toes, and the soldiers cut their shoes in order to exhibit them. See Pfyffer, *Gesch. der Stadt und des Cantons Luzern*, i. 230 (Lucern, 1861).

[2] It was the custom to bathe three times a day, and it was not unusual to give up ten hours a day to bathing at the mineral baths. Zappert, *Badewesen*, pp. 125–127. People ate and drank and proposed toasts while in the baths.

in the taverns and baths.' Speaking of them, a preacher of that time says, 'They sit in the bath-rooms and rail against God and the Emperor.' Geiler von Kaisersberg speaks of the irreverent conversation on the sacraments which used to take place in the bath-houses. Wimpheling admonishes the Strasburg city council that they should put down the drinking bouts in the taverns. 'Do not permit your sons to become idle, to be careless, or to affect the speech of the libertine; let not their dress or head-gear minister to a frivolous life. Do not allow them to pass the day in the bath-room or tavern, for there they injure souls and bodies, forfeit their money and their honour, and become slaves of the flesh, so that no one can say aught better of them after death than that they were boon companions who loved wine and women.' 'There are many,' said the Mayor of Ulm, in an ordinance against gambling, at the close of the fifteenth century, 'who lend money to young men to gamble with, in order to win it back from them and put it out at exorbitant interest.'

In the year 1502 the Elector of Brandenburg, Joachim I., required the Council of Frankfort-on-the-Oder to take measures against the sons of the burghers who 'were guilty of so much unnecessary consumption and waste, whereby they lost and squandered what their fathers had gained by hard work, fell into want and penury, and injured the State and the parish by not paying the taxes, and in other ways brought evil and disgrace upon the community. It was his earnest command and desire that the council should turn its strict attention to such riotous livers, and should not allow them to squander their substance so wrongly and unnecessarily; in cases, however, where the council

was impotent to prevent this state of things, it should point out the rioters to the Elector, who would find effective measures for restraining them.' In the year 1515 this same Elector issued a decree forbidding the 'consumption at one swoop of what was sufficient for a whole year's housekeeping.'

'Usury,' says Wimpheling, 'has gone on increasing since so many foreign things have been brought into our country, creating new wants and ambitions in the lower classes. Usury is cruel and much practised by the Jews, as well as by many Christians, who are worse than Jews. It is impossible to dispense with the system of exchange of money, and the lender has a right to some profit, but usury and money-lending, as a trade, are the ruin of a nation. Woe the day when the reins fell into the hands of wealth, and gold began to beget ever more and more gold!'

The system of money-changing acquired its chief importance from the state of confusion which pervaded the department of mint and coinage in Germany during the Middle Ages.

Originally the right of coinage belonged exclusively to the head of the Government, but in the course of ages this privilege came by degrees to be accorded to petty principalities and independent towns. The same thing happened in the case of customs, and thus it was that such a number of different coins came into circulation—land coins, princes' coins, civic coins, and so forth.[1] Vain were all the efforts of the emperors to introduce a system of imperial coinage, and thus bring

[1] In Dantzic alone fourteen different coinages existed towards the close of the fourteenth century. See Neumann, *Gesch. des Wuchers*, pp. 315-352.

more simplicity and order into money affairs. Not one of the many ' mint and coinage conferences ' which took place repeatedly between the different princes and town councils, could succeed in establishing a common coinage even for special districts. The coinage was perpetually changing ; old money was condemned, and new introduced. The confusion was so great that money, instead of being of fixed value, became simply a marketable article : for instance, a gold coin commanded a different value in Ratisbon and in Amberg, in the duchy of Bavaria and in Augsburg or Nuremberg, and so on.

This condition of affairs explains the difficulty of dispensing with the money-changer. The money-changers were simply merchants who exchanged gold merchandise for gold merchandise, the groschen of Prague for the pfennig of Ratisbon, the German gulden for the Italian florin—in a word, the money of one country for that of another. They obtained for their customers the money they wanted from him who had it lying idle, and received therefor their fees. The services of the money-changer were necessary to each merchant at home as well as abroad, for he could not always carry with him current coin in sufficient quantities, and on his return he would be obliged to change it back into money current in his home or in the places through which he passed. Therefore money-changing was a very general and very lucrative business. For a long time it was almost exclusively in the hands of the money-dealers of Northern Italy, called Lombards, who, in consequence of the prosperous commerce between Germany and Italy since the fourteenth century, increased in numbers, and established themselves in the

large cities on the Danube, the Rhine, and the Baltic especially in Lübeck and Dantzic. Their business was, however, in later years encroached on by the Jews, who almost monopolised the money-changing craft, and constantly increased its sphere.

The Jews did not content themselves with money-changing; they also lent money at usurious rates of interest, or on chattel security. They speedily became the bankers of the day, the money-lenders to all classes, from the emperor to the peasant, and they pursued their business so unscrupulously that they became universally abhorred. Some idea of their exactions may be gained by examining the lawful amount of interest during the fourteenth and fifteenth centuries. In the year 1358 the Emperor Louis of Bavaria granted the Jews of Frankfort protection and certain privileges on the condition that they would not charge the citizens more than $32\frac{1}{2}$ per cent. per annum while they were charging others $43\frac{1}{3}$ per cent. 'No one could require better terms.' In 1368 the municipality of Frankfort paid 52 per cent. for a loan of one thousand florins, which they got from four Jews in Mayence. In Augsburg, Vienna, and other cities the lawful rate of interest was often as high as $86\frac{2}{3}$ per cent.

The most usurious terms were exacted for the small loans which persons in cramped circumstances were forced to seek. In 1487 the cup-bearer Erasmus of Erbach complained: 'God have mercy! it is a sin and a shame the way the poor man is robbed by the Jews, who have established themselves in every little village, and for every five florins lent require six times as much, charging interest and compound interest until the poor man has nothing left.' The custom of lending

small sums, even thirty pfennigs, by the week, 'which was very common,' shows that it was the very poorest that had recourse to the money-lenders.

However, the princes and nobility were often deeply in debt to the Jews. They were frequently obliged to pledge their incomes and the tithes of their tenants in advance in order to pay their interest. The Jews were looked on as 'extortioners and infamous enemies of the people,' to such an extent that the popular hatred often broke out into violent personal attacks on them.

'The Jews,' writes Peter Schwartz in 1477, 'are often punished, but they deserve it, for they deceive the people and cover the land with debt through their usury. They commit secret murders, as is well known, and are therefore deservedly hated. There is no people more wicked, more avaricious, more impure, more restless, more malicious, more violent than they are, and their word is only valid when it is for their own interest.' The Humanist Beatus Rhenanus declares: 'No people ever hated those differing from them in belief more bitterly than the Jews do, no people were ever more hated in return, and no people ever deserved hatred more.' The popular voice seemed an echo of the verses of the Austrian poet, Helbling: 'There are far too many Jews in our country. It is a sin and a shame. Were I a prince I would have you all burned, you Jews!'

The Jews were abhorred on account of their opposition to Christianity. They were accused of insulting the Saviour in their synagogues; also of poisoning the wells, spreading the plague, and buying or stealing Christian children in order to suck their blood, believing

superstitiously that thus they could ensure success in their undertakings.

'It is easily understood,' wrote Trithemius, 'how a deep hatred of the usurious Jews has taken root among high and low, learned and ignorant, prince and peasant. I approve of any lawful means to protect the people from them. Shall an alien race bear rule over us, and that not through superior knowledge or virtue, but through miserable money, which they look on as the first of all treasures, and in the getting of which they descend to the vilest means? Shall this people grow fat on the sweat of the peasant and the artisan? This be far from us! But far be it from us also, on the other hand, to persecute the innocent with the guilty, or to hunt down those whose only sin is that they are Jews. To rob them of the possessions which have fallen to them only through the improvidence of princes and rulers is unjust. It is true that the Jews commit crimes; they insult the most Holy Sacrament; it is even said that they murder Christian children and drink their blood. But is all that is said substantiated? Is it just, moreover, that a whole race should be punished for the crimes of individuals?' Trithemius appealed to a bull of Innocent IV., which, among other things, said: 'Without public accusation, without trial or proof, heedless of the orders of the Holy See, the Jews have been robbed of their property, starved, persecuted, imprisoned, and otherwise tortured; many of them have been put to the most cruel of deaths, so that they suffer under German princes and nobles as much as their fathers did under Pharaoh in Egypt.' The hostility to the Jews was so great that in 1469 Pope Paul II. was obliged publicly to declare that 'to refuse

the Jews the right and justice which was due equally to all was damnable.' [1] When, in 1446, all the Jews in the Mark of Brandenburg were seized, imprisoned, and robbed of their possessions, the bishop Stephan of Brandenburg condemned the proceeding as follows: 'Those princes have acted iniquitously who, prompted by inordinate avarice and without just cause, have seized on certain Jews, and thrown them into prison, and who now refuse to make restitution for that of which they have robbed them.'

Trithemius said: 'Not by violent, unchristian persecution and reprisal must we seek to rid ourselves of the Jews, but we should aim at depriving them of the means of practising usury and deceit, and at converting them into useful workers. It is the duty of the authorities to judge where wrong is done, and to oblige the Jews to make restitution for that of which they have become wrongfully possessed.'

'Are the Jews, then, better than Christians,' asks Geiler von Kaisersberg, 'that they will not work with their hands? Are they not subject to the decree of God—in the sweat of thy brow shalt thou earn thy bread? Making money by usury is not working; it is flaying others while themselves remaining idle.'

[1] Ehmel, *Materialen zur österr. Gesch.* ii. 306. It had become so common to baptise Jewish children without the knowledge of their parents, that Pope Martin V. decreed in the year 1421 that no Jew child under the age of twelve should be received into the Church. Stobbe, p. 166. Roscher, in his *Stellung der Juden im Mittelalter*, p. 503, says: 'The Popes rather restrained than promoted the persecution of the Jews, as is proved by the decrees of Alexander III. at the Lateran Council in 1179, and those of Clement III. and Innocent III.' The Emperor Frederic II., who was opposed to the Papacy in so many things, declared that the 'imperialis auctoritas' had imposed a 'perpetuam servitutem ad perpetuam judaici sceleris ultionem' (*Urk. von 1237*, in Huillard-Breholles, i. 57).

Johannes Busch recommended that the Jews should give up their usurious trading, and, like the Christians, occupy themselves with agriculture and work, and with such servile duties as cleaning the streets. Gabriel Biel wished that the Jews should be excluded from commerce because they grew rich more through usury than industry.

Preachers of the Dominican Order were particularly eloquent in inculcating the duty of labour and condemning usury in Jews or Christians equally as a grave crime. Hence this Order was disliked, not by Jews only, but, according to Trithemius, 'by many in the cities who, though nominally Christians, are as great usurers as any Jews.'

'The hatred of Jews is so universal,' wrote the French chronicler, Pierre de Froissart, in 1497, 'that even the quietest of men become excited when the Jews and their usurious habits are spoken of. It would not at all surprise me if a general bloody persecution of the Jews should break out. They have already been expelled from several cities.' [1]

Owing to their usurious practices the Jews were driven out of Saxony in 1432, out of Spires and Zürich in 1435, out of Mayence in 1438, and out of Augsburg in 1439. In Constance and the neighbouring towns they were imprisoned in 1446. In 1450 Duke Louis the Rich expelled them from Bavaria; in 1453 they were sent from Würzburg, in 1454 from Brunn and Olmutz, in 1457 out of Schweidnitz, in 1458 out of Erfurt, in 1468 out of Neisse, and in 1470 out of the archbishopric of Mayence. In the year 1476 the city

[1] *Lettres*, 21. The persecution of the Jews proceeded more from politico-socialistic than religious grounds. See also *Oelsner*, p. 64.

council of Heilbronn decided that in view of the great injury done to the city through their extortions, no Jew should be allowed to enter it, and that those few who were living there must forswear usury. Furthermore it was ordained that no burgher or peasant could legally make a contract with a Jew, and when a Jew had to go through the city he must be accompanied by the city bailiff.

From Würzburg, whither they had returned, they were a second time expelled in 1498. In 1490 they had to leave Geneva ; Thurgau and Glatz in 1491 ; and Salzburg and Würtemberg in 1498. In the same year, at the request of the council, the Emperor Maximilian sanctioned their expulsion from Nuremberg ; they 'had become so numerous, and through their usurious dealings they had become possessed of all the property of many respectable citizens whom they had dragged into misery and dishonour.' Every Jew was obliged to leave the city, taking with him his goods and chattels, within a certain time fixed by the city council. About the year 1499 the same ordinance was passed in Ulm, with the clause that after a certain date anyone might treat any Jew remaining in the city as he pleased. In the year 1500 they were expelled from Nordlingen. In 1515 and the following years the Elector of Mayence, Albert of Brandenburg, endeavoured to unite a large number of princes and cities in a league for the continuous expulsion of the Jews. Blasius of Holzhausen, however, seemed to have some reason for thinking that it was not the general good which actuated the 'avaricious and luxurious prince, who,' he adds bitterly, 'would have sold himself to the Jews if the price had been high enough.'

'To replace the business carried on by the Jews,' much changing of money being necessary in commerce, banks were established in the different cities. In the year 1498 Maximilian decreed that in Nuremberg, in certain quarters of the city, banks were to be established where money could be borrowed at moderate rates of interest, this last going to pay the employers, while any surplus was to be used for the benefit of the city. At Frankfort-on-the-Main the council had already, at the beginning of the fifteenth century, independently of the Jews, established four banks, which, besides managing the exchange of money, transacted financial business in the newer sense of the word—raised money for the municipality and advanced it when necessary. From the records kept of these banks, and from the contemporary appearance of female money-changers and tax-farmers, we learn the noteworthy fact that the wives of merchants not only took an active part in commerce, but also carried on dealings on their own responsibility and risk.

But with the expulsion of the Jews the Jewish money-making spirit was by no means rooted out. It passed over to the Christian usurers, and in their hands, in consequence of commerce and the spread of luxury, was developed into a world-wide system of usury.[1] Principles thus came into vogue which were diametrically opposed to the stern precepts of Christianity and of the Church, and which brought about complete antagonism to the Church.

[1] Keller, iii. 1320. Another carnival satire says: 'The Jews who were formerly banished and refused Christian burial now occupy high places in the council.' Keller, iii. 1132.

Usury and extortion were most notorious among the South German trading companies of the Welsers and Höchstetters in Augsburg, the Imhofs, Ebners, and Volckamer in Nuremberg, the Rulands in Ulm, and others. These men roused the hatred of the people in the same measure as did the Jews. Even though many of the accusations brought against them may have been unfounded or exaggerated, there is no doubt whatever that owing to their skill and cunning in raising high prices the State was heavily oppressed, and that they were in great measure to blame for the later serious disorders in social conditions.

These so-called 'trading companies' met together at fixed times for the exploitation of some particular branch of trade or industry, and divided the gains among themselves in proportion to the different sums which individual members had invested. Their endeavours to obtain control of the whole German market in respect of foreign imported goods received an immense stimulus by the discovery of the direct route to India and the transference of the spice mart to Lisbon. In the near Venice and still nearer Genoa the less wealthy merchants had formerly been able to compete with the richer ones in buying up wares, but when the mart was removed to Lisbon the length of the journey through France and Spain, and the cost of bringing back the goods, made it much more difficult, and, further, necessitated the establishment of special depots at Antwerp and Lisbon. Thus it came to pass that nearly the whole spice trade fell gradually into the hands of individual companies, which fixed arbitrary prices and raised them to any height they pleased.

But these companies did not confine their efforts to

the spice trade alone. They co-operated in buying up and monopolising and raising the prices of every single branch of commerce. They bought up wine, corn, and even the fruits of the earth in blade or sheaf.

Geiler von Kaisersberg therefore pronounced them to be 'greater extortioners and deceivers of the people than even the Jews had been,' for 'they not only plunder and possess themselves of foreign goods, which, indeed, may be dispensed with, but they monopolise the necessaries of life, such as corn, meat, and wine, and bring up the prices to suit their greed and avarice, and batten on the hard toil of the poor.' 'These blood-suckers, corn and wine usurers,' he says elsewhere, 'injure the whole community; they should be driven out of towns and parishes like packs of wolves; they fear neither God nor man; they breed famine and thirst, and they kill the poor.'

In like manner Christopher Kuppner, professor of jurisprudence at the University of Leipzic, in his work on usury in the year 1508, insists that the magistrates should proceed against 'those wealthy merchants or trading companies who have agents at Vienna, in Russia and in Prussia, and who, when they learn that any particular article of trade has gone up in price, whether it be saffron, pepper, corn, or what not, instantly buy it all up to sell it again at whatever price they please. . . . Princes and rulers should not tolerate such dealings, and should be more careful for the general good of their subjects.' [1]

[1] See *Die Auszüge bei Neumann, Gesch. des Wuchers*, pp. 591–592. Muther, *Aus dem Universitätsleben*, pp. 156–166. 'Too often those in power are in league with the speculators, receiving their share either in gold or jewels, and hence ignoring what the interests of the people should make them notice.' *Eyn christlich Ermanung*, p. 17. See also Anselm,

'It has become a by-word in the nation,' writes Kilian Leib, 'that merchants of this sort perpetrate unpunished, within the city walls and in their own houses, deeds which in former days were only committed by robbers at the peril of their lives—viz. they rob men and women of their money.' [1]

The first Government measure against these trading companies was taken at the Diet at Cologne in 1512. In the minutes of the assembly there is the following entry: 'That whereas during the last few years there have arisen in the empire great trading companies, whose object is to buy up and keep under their own control all sorts of wares and merchandise, spices, ore, woollen cloths, &c., in order that they may traffic with them on their own terms, and fix the prices entirely for their own profit and advantage; and whereas they thus do great injury to the Holy Empire and all the estates thereof, contrary to all the privileges granted by the Emperor, and to all honourable dealing; so be it enacted, for the furtherance of the common welfare, that all such injurious proceedings shall henceforth be forbidden, and no one allowed to carry them on. And if

ii. 113. 'Where the rulers have an interest in speculation the public must suffer.' Under Charles VII. we find a renowned speculator, named Jacques Cuer, appointed Finance Minister. Matthew de Coucy, a contemporary, says of him: 'Charles had in his kingdom a man of low birth who, by his talents and acuteness, attained a prominent position in commercial circles and finally became Minister of Finances. He had agents in all parts of the world, owned many ships which by paying toll to the Sultan traded in the Levant and Eastern lands, bringing back the most costly goods, which his agents sold at the European Courts and in the principal cities. His income was enormous, and in 1449 he lent the King large sums to prosecute the wars in Normandy. He died an exile in Famagusta.' See Kisselbach, *Gang des Welthandels*, p. 231.

[1] 'Annales ad a. 1519' in v. Aretin's *Beiträge zur Geschichte und Literatur*, vii. 650-651.

any be found guilty of such action in the future, their goods and chattels shall be confiscated and handed over to the rulers and magistrates of the place. Furthermore, they shall not receive protection from any of the imperial authorities.'

On the other hand, in order to show that it was not against trade associations as such that proceedings were taken, it was decreed 'that none were hereby forbidden to join with others in a company for buying or selling goods where they pleased, provided only they did not attempt to monopolise goods or to fix the prices at their own will and pleasure, or to make conditions with the buyer or seller not to trade with any but themselves.' Wherever merchants combined for the purpose of raising prices, the authorities in the place should be bound carefully and zealously to prevent such action, and to establish fair and honourable traffic. If they neglected this duty the imperial warrant would be issued against them 'to proceed and act in such cases as is fitting.' [1]

But the might of gold was greater than the whole power of the Empire. 'Many of the town councillors were members of trading companies,[2] and among the imperial councillors many were open to bribes . . or else had secret shares in the enterprises.' 'The Emperor,' says an old chronicler, 'has councillors who are swindlers; they nearly all of them grow rich themselves, and the Emperor grows poor.'

[1] *Neue Samml. der Reichstagsabschiede*, ii. 144, 16–18. For several decrees limiting the privileges of those who brought goods to Cologne to sell as peddlers, interfering with the interests of the home merchants, see Ennen, *Gesch. Kölns*, iii. 907–908.

[2] See proceedings of the inhabitants of Ulm in 1513 against the burgomaster for carrying on business in Stuttgart to the prejudice of home merchants. Schmoller, *Nationalökonomische Ansichten*, p. 500.

This pernicious system of monopolies gained wider and wider ground, and the complaints of the general rise of prices grew louder and louder. In Würtemberg, for instance, after the year 1510 the price of wine rose gradually as much as 49 per cent.;[1] and that of corn 32 per cent. This rise in prices was connected with the depreciation of silver, which was not the result of American importation, but of the robbery of German mines, which was chiefly carried on by trading companies.

The Fuggers of Augsburg realised, solely from the mines at Schwartz in the Tyrol, which had been given them in pledge, the yearly sum of 200,000 florins: whilst the Höchstetter Company, also of Augsburg, extracted out of these mines between 1511 and 1517 not less than 149,770 marks of pure silver and 52,915 cwt. of copper.[2]

In the Austrian hereditary dominions the trading companies of Augsburg and Nuremberg actually bought up the most indispensable goods in large quantities before the very gates of the cities, or even in the market-places, by this means getting the retail trade and the entire control of prices into their own hands. Hence, at a special meeting of the Diet at Innsbrück in 1518, it was resolved that, 'Whereas the large trading companies which have establishments outside the country have, either themselves or through their agents, obtained a monopoly of all the most indispensable commodities

[1] See Helferich, *Geldenwerthung*, pp. 471–492. It was not till somewhere about 1560 that the importation of American silver reduced rates of interest. Ennen, *Gesch. Kölns*, iii. 907–908.

[2] Greiff, p. 94. The mine monopoly of the Fuggers had much to do with the peasant disturbances in the Tyrol. Hofler, in *Archiv für Kunde österreich. Geschichte*, xi. 204.

of life, such as silver, copper, steel, iron, linen, sugar, spices, corn, oxen, wine, meat, fat, tallow, leather, &c., and have become so powerful by means of their riches that they shut out the smaller merchants and tradesmen; whereas they fix and determine the prices by their own arbitrary will, by which means they prosper inordinately, some of them amassing princely fortunes to the great injury of the hereditary lands: be it enacted that, with the exception of the market-places, these companies shall not open any shops for daily traffic; and further, for protection against fraud and smuggling, no person in the country shall be allowed to join them openly or secretly, privately or publicly. At the fairs and yearly public market days at Vienna, Bozen, in the neighbouring provinces, and in other places, these companies shall not be allowed to get possession of goods or wares by offering higher prices. Further, it shall not be allowed to any company to buy up the Hungarian or home-bred cattle on penalty of forfeiture.' All traffic with other countries, whether importation or exportation, was forbidden. 'Also, the company newly set on foot for carrying on the trade in soap shall be put down as injurious to the land. The price of spices and groceries is brought up to quite immoderate heights by the monopolies of the companies, and the wares also which they obtain in good condition from Venice, Calcutta, Lisbon, Antwerp, Lyons, and Frankfort are afterwards adulterated by them: for instance, ginger is coloured with brick-dust, and mixed like pepper with unwholesome ingredients.'

The gains of commercial speculators were often enormous. Bartholomew Rem of Augsburg, for instance, with the sum of 500 florins which he lent

Ambrose Höchstetter to trade with, realised between the years 1511 and 1517 not less than 24,500 gold florins. Well might it therefore be said that the mercantile profits exceeded sevenfold those of Jewish usurers. What princely fortunes often accrued to these great capitalists may be gathered from a statement of Conrad Meyer, secretary to the Fuggers: 'The capital of the Fuggers at one period received an increase of 13,000,000 florins in the course of seven years.' [1]

Among the members of the companies there was not seldom strife and contention over the gains, and the managers and directors were often accused of not keeping accounts honestly. 'The merchants,' so runs an Augsburg chronicle of the year 1512, 'formed great companies among themselves and became rich, but many of them were dishonest and cheated each other. Hence the directors of the companies, who managed the accounts, were nearly always richer than the others who had nothing to do with the accounts. Those who grew rich were called clever folk; it was not said that they were great thieves. . . .'

'But,' says a sermon of the year 1515, 'whatever lengths they go to with usury and money-making, it is of no use. As all the world sees that the great monopolists become rich in a short time, everyone thinks he will grow rich too, and put his money out to the best advantage. The artisans and the peasants invest their money in a company or with a tradesman. They think to gain a great deal, and often they lose everything. This evil did not exist in former times; it has grown up in the last ten years.'

[1] Greiff, p. 94. The Fuggers were at one time worth sixty-three million florins.

A loss of this sort, for example, was sustained by the shareholders in the business of Höchstetter of Augsburg. Not only princes and noblemen, but peasants, farmers, and servants placed their money with this merchant. 'Numbers of farm servants and others,' so writes Clemens Sender of Augsburg, 'who did not possess more than ten florins, lent it out to him, thinking it would be in safe keeping, and that they should receive a yearly percentage. This Höchstetter had for some length of time as much as a million florins invested in his company. He put on the semblance of being a good Christian. But with his mercantile dealings he often injured the common weal and oppressed the poor and needy in every possible manner. He bought up ash wood in good seasons, and sold it at a high rate in bad seasons, and the same with wine and corn, and made his profit in every way; and he often bought up a whole stock-in-trade at a higher price than it was worth, so that he might get the advantage of the other tradespeople, who could not afford such large outlay. In this way he raised the price of goods in all other countries, and got monopolies everywhere. No single merchant with a capital of 50,000 florins or 100,000 florins could hold his own against him, for he carried all before him.'

'Ambrose Höchstetter bought up the quicksilver of all countries and kingdoms at a higher price than the usual sale, which was eight florins a hundredweight, and when he had got the monopoly of the trade he sold it at fourteen florins the hundredweight. He had bought up quicksilver to the amount of 200,000 florins, but he lost the third part of it, because in the meanwhile large quantities of the article were found in

Spain and Hungary. Other mischances followed. One of his ships, with a large freight of spices, was sunk in the sea. Several waggon-loads of goods which were on their way from the Netherlands to Augsburg were carried off by highway robbers, and other disasters befell him. But all these misfortunes would not have mattered if his own sons and brother's sons had acted honestly and managed affairs properly. But his son Joachim and his daughter's husband, Franz Baumgartner, often spent from 5,000 to 10,000 florins on one banquet, and gambled away at other times ten, twenty, or thirty thousand florins. In consequence of all which Höchstetter found himself in later years in debt to the amount of 800,000 florins, and died in the town prison. And many honest people, rich and poor, were brought to great distress by his failure.' The town council built a prison for debtors on the occasion of Höchstetter's bankruptcy.

It could not be denied that in the political economy of the country things had taken a far from happy turn, and thoughtful observers looked anxiously into the future. Excessive trading had produced excessive greed of gold, and had also fostered extravagance and luxury in clothing and food. The conditions of capital became more and more oppressive.

'It was a good time in German lands,' says the above-mentioned sermon, 'when all goods and commodities had their fixed legitimate prices, and the magistrates did not allow any regrating and usury. But since trade has increased so immoderately, and the great companies have taken to forestalling and monopolising, times have become very hard, and all that the poor man urgently needs for his food and clothing

has risen to so high a price that soon it will be no more possible for him, or at least very difficult, to procure the bare necessaries of existence. If this state of things does not alter, there is reason to fear much trouble and disturbance. Gold ! gold ! cry out these extortioners, and the more they succeed in their extortionate dealings the louder becomes the cry of " gold ! gold ! " for gold makes the man. And whoever cries out against them : " Oh, you extortioners and plunderers of the people, you will bring on yourselves the wrath of God and man ! " is, according to them, a fool and a simpleton, and is not liked by them, but hated and abhorred. Hence they despise the Church and its commandments because they are a hindrance to them. " God the Lord alone is Lord of all the earth, and whatever property thou hast thou art only the manager of it in God's name, and thou must not think that thou hast no account to render, and canst do with it as seemeth good to thee ; that thou canst grind and oppress and ignore thy poorer brethren. Thou must labour and not be idle ; whatever thou hast to sell thou must sell it at a fair price ; above all, thou shalt not make money by usury or interest." Commands like these sound detestable in the ears of usurers and monopolists and money-makers, who only wish to become great lords, and to obtain letters of nobility, and to lord it over others. Therefore,' reiterates the preacher, ' they scorn the holy Church, and such teaching as it enforces about property, about the duty of labour, about usury and interest, and the just price of commodities.'

According to the teaching of the Church, all

possessions on earth belong to God alone. As God is the Creator of all things, so He is the one and only Proprietor of all. According to His will, all men are to procure their sustenance from the fruits of the earth; but He has not ordained community of goods, for under such a state of things, owing to the sinful nature of man, there would be nothing but discord and plunder on earth. It is only by recognition of individual rights of ownership that the order necessary for the proper working and improvement of property can be maintained, and peace secured among men. But nobody has an unconditional right of ownership even in legitimate property, so that he may dispose of it according to his arbitrary caprice and will, or use it for the gratification of merely personal enjoyment or love of dominion. Each one is only entitled to the use and enjoyment of his goods according to the rules imposed by God's law, and this law requires that he should act as a faithful steward, and that he should use the fruits of his property, as far as possible, for the good of the community.[1] In the exercise of this duty, 'to give according to one's means,' lies the true balance between riches and poverty; the question of the unequal distribution of property is thus legitimately solved. The succour of the needy and destitute, in whatever form it be practised, is therefore not merely to be regarded as an act of Christian love; it is an imperative duty.[2]

[1] Again and again in works on Canon Law in the fifteenth century the well-known precept of Saint Thomas Aquinas is insisted on: 'Bona temporalia, quæ homini divinitus conferuntur, ejus quidem sunt quantum ad proprietatem, sed quantum ad usum non solum debent esse ejus, sed etiam aliorum, qui ex eis sustentari possunt ex eo quod ei superfluunt.' See Contzen's *Geschichte der volkswirthschaft. Litteratur*, 84.

[2] A *debitum legale.*

'Let the rich remember,' says Trithemius referring to the teaching of St. Augustine and Pope Gregory the Great, 'that their possessions have not been entrusted to them in order that they may have the sole enjoyment of them, but that they may use and manage them as property belonging to mankind at large. Let them remember that when they give to the needy they only give them what belongs to them. If the duty of right use and management of property, whether worldly or spiritual, is neglected, if the rich think that they are the sole lords and masters of that which they possess, and do not treat the needy as their brethren, then there must of necessity arise an inward disintegration of the commonwealth. False teachers and deceivers of the people will then gain influence, as has happened in Bohemia, by preaching to the people that earthly property should be equally distributed among all, and that the rich must be forcibly compelled to the division of their wealth. Then follow lamentable conditions and civil wars; no property is spared, no right of ownership any longer recognised, and the wealthy may then with justice complain of the loss of possessions which have been unrighteously taken from them; but they should also ask themselves seriously the question whether, in the days of peace and order, they recognised in the administration of their goods the right of their superior lord and owner—namely, the God of all the earth.'

The Church teaching on the laws of property was in all essentials the same as the teaching of German jurisprudence, which, as we have seen, was altogether penetrated with the clerical spirit.

German law, indeed, was based on the principle that property was a loan from God, with rights protected by

His commandments. Hence every individual proprietor was held answerable to God for the handling of the trust committed to him, and the extent and nature of his rights as owner were determined according to the moral exigencies, which were regarded as the actual *raison d'être* of his proprietorship. Each proprietor was bound to use his possessions for moral ends. He was not allowed to confine himself to mere selfish and personal enjoyment of them. His own wants and pleasures were to be limited by due consideration for his family, his neighbours, and his needy brethren. Moral obligations were looked upon as legal ones. Hospitality was regarded as a real duty, and it was a generally acknowledged principle that the hungry and the needy were entitled to take from the fruits of fields and forests what they required for the satisfaction of their immediate wants. Above all, the moral principle of fairness and moderation was reckoned of first importance in the exercise of rights connected with property.

As with regard to actual property, so also in respect of all wealth gained by productive labour, the German secular law was essentially in accord with the teaching of the Church.

All property is originally the result of human labour, and labour is 'for every God-fearing man his most inalienable possession.' Only those who labour, be it with their hands or their heads, and those who are needy through no fault of their own, have any claim, according to the teaching of the Church, on the fruits of the earth.

'To labour,' says a Christian writer, 'is to serve God according to His command': hence all men ought to

labour, some with their hands in the field, in the house, or in the workshop; others in learning and art; others as rulers of the people, or in other positions of authority; others in war for the protection of their country; others as spiritual servants of Christ in churches or monasteries; others through prayer alone for the praise and glory of God, and to intercede for the sins of mankind. Such labourers, who pray day and night, are much needed, and think not, O man! that they spend their days idly; for the labour of prayer is a very fruitful one, and does good to all, especially to thyself, if thou wilt pray thyself. But whoever goes idle is a despiser of God's commandments.' Sebastian Brant calls idlers 'the most foolish among fools'; they are to other people, he says, like smoke to the eyes, or vinegar to the teeth: only by labour is God truly praised and honoured.

'Taught by the evidence of Holy Scripture,' says the Carthusian Werner Rolewinck, 'we know that God and the labourer are the true lords of all that serves for the use of man. Whoso will not work, says the Apostle, the same shall not eat.'

'Man is born to labour, as the birds to fly,' says Trithemius, 'and hence it is contrary to the nature of man when he thinks to live without work, as is the case with usurers and money-dealers. Adam himself, when still in a state of innocence, was obliged to tend and cultivate the Garden of Eden—obliged to work, that is; and after he had sinned labour was imposed upon him as a heavy yoke, from which neither he nor any of his descendants have been able to free themselves; for God's decree holds good for all: In the sweat of thy brow shalt thou gain thy bread.'

'Heavy, laborious work,' says Heinrich von Langenstein in a specially important treatise on political economy, 'is the inevitable yoke of punishment which according to God's righteous verdict has been laid on all the sons of Adam. But many of Adam's descendants seek in all sorts of cunning ways to escape from this yoke and live in idleness without labour, and at the same time to have a superfluity of useful and necessary things: some by robbery and plunder, some by usurious dealings, others by lying, deceit, and all the countless forms of dishonest and fraudulent gain by which men are for ever seeking to get riches and abundance without toil. But while such men are striving to throw off the yoke righteously imposed on them by God, they are heaping on their shoulders a heavy burden of sin which, after their days of enjoyment and luxury on earth are over, will drag them suddenly down to hell. Not so, however, do the reasonable sons of Adam proceed; but recognising in sorrow that for the sins of their first father God has righteously ordained that only through the toil of labour shall they obtain what is necessary to life, they take the yoke patiently on them, in the hope thereby to obtain forgiveness of their sins, and by honourable work to secure for themselves the good things of the present life as well as of the life to come. Some of these, like the peasants, the handicraftsmen, and the tradespeople, procure for themselves and others, in the sweat of their brow and by physical work, the necessary sustenance of life. Others, who labour in more honourable ways, earn the right to be maintained by the "sweat of others' brows"—for instance, those who stand at the head of the commonwealth: for by their laborious exertions the former are enabled to enjoy the

peace, the security without which they could not exist. The same holds good of those who have the charge of spiritual matters, and who by zealous care and activity procure for themselves and for others those higher benefits towards the possession of which all the collective work and labour of mankind should tend. But most especially are those deserving of praise who occupy themselves alternately with both these kinds of work—physical and spiritual. To this number belonged the Apostle Paul, who, while maintaining himself by the labour of his own hands, proclaimed at the same time the Gospel to the heathens.'

The duty, dignity, and meritoriousness of work are thus constantly insisted on by Langenstein. He even goes so far as to say that useless idlers should be turned out of the community, or else compelled to engage in some useful employment. And all the other canonical writers took the same view that he did of work, as the source of all possession: work, and not property, was the bestower of all worth and dignity, and to the workman belonged therefore the fruits of his work.

German secular law was just as much the protector of labour, of its rights and its dignity, as was the Canon Law. It recognised in it an independent means of producing property. It laid down, for instance, the pregnant principle that those individuals have a claim on the 'fruits' who have bestowed the necessary care and culture to produce them, and that everywhere, where a right to the improvement of land existed, every increase of value which is the result of labour should be to the profit of those who have brought it about. From this view of the property in improvements it followed that the property originally let out to farmers gradually

became their own possession, while the rights of the ground-owner dwindled down to a mere liability of the property to certain services and dues.

Among manual industries none stood higher in the estimation of the canon law than agriculture.[1] It was looked upon as the mother and producer of all social organisation and all culture, as the fosterer of all other industries, and consequently as the basis of national well-being. The *canon law* exacted special consideration for agriculture, and partly for this reason, that it tended in a higher degree than any other branch of labour to teach those who practised it godly fear and uprightness. 'The farmer,' so it is written in 'A Christian Admonition,' 'must in all things be protected and encouraged, for all depend on his labour, from the Emperor to the humblest of mankind, and his handiwork is in particular honourable and well-pleasing to God. Therefore both the spiritual and the secular law protect him.'

Next to agriculture came handiwork. 'This is praiseworthy in the sight of God, especially in so far as it represents necessary and useful things.' 'And when the articles are made with care and art, then both God and men take pleasure in them; and it is good and true work when artistic men by the skill and cunning of their hands, in beautiful buildings and sculpture, spread the glory of God and make men gentle in their spirits, so that they find delight in beautiful things, and look reverently on all art and handicraft as a gift

[1] The ecclesiastical writers deprecated any politico-economic movement which encouraged the people to give up the pursuit of agriculture for trade and commerce. See Endemann, *Nationalökonomische Grundsätze*, p. 175 ('Principles of National Economy').

of God for the use, enjoyment, and edification of mankind.'

Trade and commerce were held in lower esteem. 'An honourable merchant,' says Trithemius, 'who does not only think of large profits, and who is guided in all his dealings by the laws of God and man, and who gladly gives to the needy of his wealth and earnings, deserves the same esteem as any other worker. But it is no easy matter to be always honourable in all mercantile dealings, and with the increase of gain not to become avaricious. Without commerce no community of course can exist, but immoderate commerce is rather hurtful than beneficial, because it fosters greed of gain and gold, and enervates and emasculates the nation through love of pleasure and luxury.'

The writers on canon law did not think that it was conducive to the well-being of the people that the merchants, 'like unto spiders, should everywhere collect together and draw everything into their webs.' With the ever-increasing growth and predominance of the mercantile spirit before their eyes they were sufficiently justified in their condemnation of 'the tyranny and iniquity of trade,' which, as St. Thomas Aquinas had already said, made all civic life corrupt, and by the casting aside of good faith and honesty opened the door wide to fraudulence; while each one thought only of his personal profit, without regard to the public good.

This clerical view of matters was still in the sixteenth century the prevailing one among high and low. From abhorrence of the organised system of extortion, wholesale forestalling, and monopolies, many leaders of public opinion went so far as to denounce

commerce altogether as an iniquitous pursuit, and the whole body of merchants as fraudulent, dishonourable, and usurious, and therefore injurious to the community. Commerce, they said, could not enrich the nation, for it only transferred goods from one hand to another, and what the merchants gained in the transaction was at the cost of the people. 'Merchants,' said Erasmus, 'are the vilest and most contemptible of men; they carry on the most despicable of all industries, and that moreover in the meanest fashion; and though they lie, perjure themselves, steal, cheat, and in every way impose on others, they set themselves up everywhere as the first of the land—which, indeed, their wealth enables them to do. A merchant would not succeed in growing very rich if he applied his conscience to the question of usury and rascality.' 'Merchants,' writes the Humanist Heinrich Bebel, 'amass their riches more by usury than by honest dealing.'

Out of solicitude for the working classes it was insisted on in the ecclesiastical law that the inspiring aim of the collective mass of industrial activity must be, not personal interest and advantage, not restless greed for material gain, possession, enjoyment, but the union of the whole body in the bonds of brotherly love. The civic, economic life of the community, as well as its religious life, was to be regulated according to the eternal laws of right and justice as proclaimed by the Church.

The ecclesiastical law condemned usurious interest as a form of theft, for it held labour alone to be productive, money, on the other hand, as unproductive.[1]

[1] Endemann, in his *Studies of Roman Ecclesiastical Political Economy, and Jurisprudence*, says, 'The Church aimed at regulating the

It was an understood thing that every individual was justified in protecting himself with regard to his property or the produce of his labour. Anyone who suffered real loss from the spending of a loan could demand equivalent compensation. He could also claim damages for what he might have gained with the said sum of money in his own business if he had not lent it out. Proportionate amends were also guaranteed when the lender was exposed to unusual danger, either of not recovering his money at all, or only in part. In all these cases there was no departure from the general tenet that money may not produce money, and there could be no question of usury in these transactions.

On the other hand, any interest or profit which was paid by the borrower to the lender simply and solely as the price of a loan was looked upon as unlawful usury. Above all, the ecclesiastical law insisted that no interest should ever be exacted from those in need to whom money was lent as a help in immediate want; such exaction was considered disgraceful trading on the necessity of a fellow-creature, covetous appropriation of what belonged to another. This moral and religious

whole machinery of traffic and its rights.' At pp. 192–193 of his *National-ökonomische Grundsätze der canonistischen Lehre* he says: 'The teaching of canon law presents a noble edifice, not less splendid in its methods than in its results. It embraces the whole material and spiritual nature of human society with such power and completeness that verily no room is left for any other life than that decreed by its dogmas.' This was the aim of the Church, and in view of the tremendous agencies through which it worked, in view of the dominion which she really exercised, the impression of its greatness cannot be effaced by the unfortunate fact that all was not accomplished that had been planned. Whether or no it was 'good fortune' that the rule of ecclesiastical teaching, and with it that of German law, which in all essentials was entirely in accord with the canon law, was destroyed, let the unhappy political conditions of the following centuries testify.

code obtained judicial sanction from the State in the Middle Ages as being the embodiment of the Christian order of society: the ecclesiastical law against interest was treated as a secular law, and it ruled in the lay as well as in the Church courts of justice.

The only kind of lending on interest that was allowed was the so-called *Rentenkauf*—that is, the imposition on a piece of the land belonging to the debtor of a tax or annual interest to be paid to the creditor. As a general rule, the creditor could not foreclose, and at any moment the debtor had a right, by repaying the capital, to relieve the property of the charge.

In order to protect the poor from the oppression of usurers the Church encouraged the erection of lending-houses, which advanced sums of money to necessitous persons on small security and at a low interest. This interest only went towards defraying the costs of management.

In Germany the efforts of the Church in this direction had very small results. 'The law of mercy does not extend in our land to the poor and the labourers,' so says a Christian book of exhortation; 'and yet it is much needed by them, and the authorities are very remiss in this matter: hence usury is rampant among us.'

'The reason why usury is so great in the land,' says another Christian tract, 'is because the commands of the Church are despised and ignored by the merchants and all such who possess much money, and wish to gain more from day to day, as if their money were theirs and their children's and their children's children's for ever and ever. And it is not only with money that they carry on usury, but with all property and

goods whatsoever, when they do not keep within the fair and reasonable prices, such as clerical and secular law prescribe.'

Hence the canon law did not confine its operations only to questions of interest on money-loans, but it took into account the whole collective business of traffic in property, whether of land or labour. It aimed at bringing about the most equitable state of things possible in political economy, everywhere striving to maintain a just balance of reciprocal service. And in view of this it required on the part of the authorities, or of the labour-guilds themselves, that they should keep watch over traffic, and see that proper fixed prices be assigned to goods according to their value and to the labour and money expended on them. The action of the towns and guilds in this respect in the period when the conditions of labour were regulated by the State was throughout entirely in accord with the precepts of canon law. The authorised supervision of traffic of all sorts was regarded by them as a salutary protection against the workings of personal avarice and greed.

'It is quite erroneous to suppose,' says Trithemius, 'that traffic would be perniciously limited by a fixed regulation of prices. On the contrary, we see under our very eyes how far more trade and commerce flourish when, as far as possible, just prices are adhered to, and mankind is preserved by law from the over-reachings of avarice.'

The 'most fair price possible' was to be arrived at, not according to the nominal price and the accidental market value of articles of trade, but according to their real worth and the costs of their production. The

seller was not to calculate his price according to the means of the buyer; but, on the other hand, neither was the buyer to be influenced by the personal circumstances of the seller, 'for to take any advantage of the necessity of a fellow-creature was contrary to justice and forbidden under severe penalty.'

Adherence to this principle was, above all, strongly enjoined with regard to the necessaries of life, and it was looked upon as the worst form of usury to buy up commodities of this sort with a view to selling them again at higher prices. 'Whoever buys up corn, meat, and wine,' says Trithemius, 'in order to drive up their price and to amass money at the cost of others is, according to the laws of the Church, no better than a common criminal. In a well-governed community all arbitrary raising of prices in the case of articles of food and clothing should be peremptorily stopped; in times of scarcity merchants who have supplies of such commodities can be compelled to sell them at fair prices; for in every community (as the Fathers teach and as the nature of things requires) care should be taken that all the members be provided for, and not only a small number be allowed to grow rich and revel in luxury, to the hurt and prejudice of the many. Care and consideration must be given to the poor and the less well-to-do, and the laws must provide for their protection. This is what the canon law requires, and, in accordance with it, in every well-regulated community, the right prices are fixed and the right wages for labour, so that no one may come to want, and everyone, according to his or her position, have sufficient food and clothing.'

So long as the principles of the canon law and of

its outgrowth, the German secular law, were adhered to, national political life continued to flourish in Germany. It was the casting aside of these principles that caused the ruin of the working classes and the rise of the proletariat of later times.

The struggle against the German Christian system of political economy was carried on by all those who encountered in it a check on their inordinate strivings after personal profit and enjoyment at the expense of the people.

The mightiest weapon in the fight was furnished by the newly introduced system of Roman law, whose politico-economical teaching was diametrically opposed to the Christian German Code.

According to the Roman conception of things, each individual was free to seek his own gain without regard to the commonweal, without concern even as to whether others were thereby ruined. In the Roman Code the basis and justification of property was not, as in the German law, a moral rule for moral ends, but simply and solely the rule of physical force, whose compass and extent were determined by the will of the individual alone. This ' immoral ' view of property in the Roman Code destroyed the feeling of brotherhood in communities, and resulted in an unbounded development of the spirit of gain.

Nowhere in the Roman legal system is labour looked upon as the basis of property ; the value of free labour, the subjection of the individual to the law of daily work, were quite ignored by its compilers, and hence there is never any question of free organisation of labour and of a just distribution of the produce of labour.

Laborious toil was the lot of downtrodden slaves, while the powerful classes possessed and enjoyed.

The more deeply this pagan doctrine rooted itself in German soil in the course of the sixteenth century, the greater became the abuse of property, the deterioration of the working classes, and the retrogression of the political standing of the nation. Not commercial and industrial life only, but the development of the peasant conditions also, was powerfully disturbed.

But the pernicious workings of the new legal system spread far beyond the domain of industrial economy. Its poison entered into the whole sphere of ecclesiastical and political life. Everywhere favouring the might of property, and the subjection of the nation by princely absolutism, it undermined the foundations of German law and of the German constitution.

BOOK IV

CHAPTER I

THE HOLY ROMAN EMPIRE: ITS RELATIONS TO FOREIGN COUNTRIES, ITS CONSTITUTION, AND ITS LAWS

THE constitution of the Empire derived its character from its earliest beginnings. From their earliest appearance in history the Germans stand out as a race of peculiar physique, peculiar language, and peculiar customs; not, however, as a compact and conglomerate nation. They consisted of separate tribes, not united by any political bonds, but standing in the most various relations to each other: now allied, now at war, now altogether indifferent to each other.

In the course of time many of these tribes became united with other nations, more especially with the Romans, and thus they lost their German characteristics—as, for instance, the Vandals in Africa, the Visigoths in Spain, and the Ostrogoths in Italy. Others kept themselves unmixed, indeed, but remained independent States, like the Swedes and the Danes, down to the present day, and, like the Anglo-Saxons, down to the time when by union with the Roman Normans they became the English of our times.

In their central position on the Lower Rhine the ancient Franks formed a nucleus around which there clustered by degrees a number of very different tribes,

such as the German, Roman, and Slavic, owning the dominion of the Franks, and growing gradually into one nation. The Saxons, who dwelt between the Rhine and the Weser, resisted the alliance longer than the Suabians and Bavarians, and submitted only after long years of contention. Under Charlemagne the kingdom of the Franks became the political and intellectual centre of the West. With pardonable self-esteem they prefaced their constitutional code with those famous verses :

> Der hehre Stamm der Franken, gepflanzt von Gottes Hand,
> In Waffen ohne Wanken und stark durch Friedensband,
> An Rathe nie versagend durch edles reines Blut,
> Durch Bau und Blüte ragend, durch frischen festen Muth.

(' The illustrious Franconian nation, planted by God's hand ; fearless in war, firm in peace, wise in council, of pure and noble blood, strong in body and mind.')

After the dismemberment of the great Franconian monarchy the purely German elements formed themselves into an empire under Henry I., comprising the Franks, Saxons, Suabians, Bavarians, and Lothringians. Their union was cemented by the German ecclesiastical constitution. The Frankish legislation, however, survived, and everything relating to the unity of the Empire was based upon it. On Franconian soil the King was elected and crowned ; if he were not himself a Frank, he was obliged to adopt the Franconian laws and nationality. The Archbishop of Mayence, the highest ecclesiastic among the Franks and the first prince palatine of the Rhine, stood at the head of the German principalities, and presided at the election of the King.

The King was elected by the tribes. On the famous election days in the years 1024 when Conrad was

chosen, and again in 1025 when Lothair III. was elected to the throne, the tribes were represented by their assembled freemen in arms at the centre of the Empire, between Oppenheim and Mayence. By their bishops, dukes, and barons, they gave their votes, which were counted, and the result was declared amid the sound of trumpet and the clang of arms. So long as there remained one of the royal houses that had not died out the choice was made from the reigning families, and care was taken whenever possible to preserve the succession of father and son. Germany was then an hereditary, elective kingdom, and under that constitution saw its most brilliant epoch.

The coronation oath which was taken by every king down to Francis II. was the most eloquent embodiment of the administrative system of the Empire. Before placing the crown on the King's head the Archbishop of Mayence asked the following six questions :

I. 'Will your Majesty be faithful to the Holy Catholic, Apostolic faith, and strengthen it by good works ?'

II. 'Will your Majesty protect the Church and her servants ?'

III. 'Will your Majesty govern the kingdom which God has confided to you according to the justice of our forefathers, and defend it energetically ?'

IV. 'Will your Majesty maintain the rights of the Empire, reconquer the States which have been unjustly taken from it, and govern the same to the best of your ability ?'

V. 'Will your Majesty be for rich and for poor, for widows and for orphans, a righteous judge and pious protector ?'

VI. 'Will your Majesty render to the Church and the Pope all the obedience and respect due to them?'

Having answered distinctly to each one of these questions 'I will,' the Emperor went to the step of the altar, and, with two fingers of his right hand on the Gospel, took the oath: 'With God's assistance I will live faithfully up to the above promises. So help me God and His holy Gospel.'

After administering this oath the archbishop turned to the dignitaries, and to all present who were supposed to represent the people, and asked in a loud voice: 'Will you promise obedience to this prince and lord? will you defend his kingdom, be true and faithful to him, and obey his commands according to the words of the Apostle, "Let everyone be subject to the ruler who has authority over him, and to the king as supreme ruler."' All assembled then answered, 'So be it, so be it.' Through the agency of the representatives of the Church the respective duties of sovereign and people were then fixed, a contract drawn up, as it were, between the King and his subjects, and the crowning and anointing were then concluded.

In the person of the King the Church blessed all secular authority, and stamped it with the seal of Christianity. During the ceremony the archbishop offered up the following prayer: 'Lord, Thou Who hast reigned over all from the beginning, bless this our King, and give him wisdom to reign over his people with mercy and in peace. Let him now and ever be subject to Thee, and grant him glory and triumph in unavoidable wars. Give to him the spirit of justice, and make his people submissive to him. Make him merciful. Save him from evil desires. Let him in such wise serve

justice and truth, that during his reign his people may grow strong and flourish, and find their happiness in peace.'

All public authority was looked upon as a responsibility conferred by a higher Power. The King, receiving it from God, entrusted it to the vassals of the Empire, and they in turn to those under them, down to the lowest ranks in the State administration. The two duties of commanding and of serving formed the groundwork of social life. Each member of the commonwealth had his special position and corresponding obligations. Loyalty to duty was the bond of the nation.

It was the aim of the German constitution to accord to each individual all practicable independence. All authority was graduated: the head of the house regulated his own family; the families formed themselves into communities, parishes, districts, and provinces. According to this organisation, each part rendered to the other only such fealty as was for the interest of the whole. Royalty was the keystone of the Germanic constitutional arch.

The King was not so much the ruler as the first guardian of the Empire; not so much the owner as the principal administrator of its power and interests. All jurisdiction proceeded from him. He was commander-in-chief in times of war, and the highest protector of justice and of peace. In conjunction with the ecclesiastical and lay estates he devoted his attention during the sessions of the Diet to drawing up the needful laws and regulations. The estates were, in relation to him, as the representatives of the national rights and customs, and it was his duty to protect those of each tribe

and class. All the laws were confirmed by his decision, and the statutes of the different districts and provinces required his sanction. But he himself was by no means unamenable to the law: were he to violate the requirements of his oath he would be cited before a tribunal of the princes, and, if found guilty, deposed.

The old German principle of sovereignty had grown up with the nation, and entered, as it were, into its bone and marrow. For centuries long the German popular idea of the King had corresponded with the picture drawn of the regal character in one of the oldest Christian poems, 'Heiland,' the impersonation of all justice, mercy, and greatness. In him were united all individual and national virtues, and he was the mirror of all the joys, sorrows, and struggles of his people, as also of the national glory.

From the time of Otho I. until the fall of the Empire the German monarchy maintained a close alliance with the Roman Empire.[1] The full importance of this connection can only be realised by means of true insight into the relations between the temporal and spiritual powers which existed in the Middle Ages.

Church and State, granting certain presupposed conditions, are two necessary embodiments of one and the same human society, the State taking charge of the temporal requirements, and the Church of the spiritual and supernatural. These two powers would, however, be in a state of continual contention were it not for a Divine law of equilibrium keeping each within its own limits.

[1] 'The German Nation,' says the Saxon law, 'has the right of electing the King. When he who is elected is consecrated by the Bishops, he shall sit on the royal throne at Aix-la-Chapelle and be declared King. When he has been consecrated by the Pope, he is then in full possession of royal power and title.'

This is the sense and spirit of that famous utterance of Pope Gelasius which was the guiding principle of Church and State government in the Middle Ages.

The original cause of the separation between the spiritual and temporal powers at the end of the fifteenth century lies in the law established (so taught Pope Gelasius) by the Divine founder of the Church, Who, 'cognisant of human weakness, was careful that the two powers should be kept separate, and each limited to its own province. Christian princes were to respect the priesthood in those things which relate to the soul, and the priests in their turn to obey the laws made for the preservation of order in worldly matters; so that the soldiers of God shall not mix in temporal affairs, and the worldly authorities shall have naught to say in spiritual things. The province of each being so marked out, neither power should encroach on the prerogatives of the other, but confine itself to its own limits.'

The ecclesiastical power is complete and independent of the State, having within itself all that is necessary to accomplish its end; but necessarily it often comes in contact with the State, which has its sovereign rights to be acknowledged and respected by the Church.

The two powers being thus separated, each governing independently within its own limits and each in sympathy with the other, it obviously becomes wisdom in the secular and lower State to model itself upon the more elevated conceptions of the spiritual. The order to be found in the Church, particularly in the unity of her hierarchy, may well supply an example to the State government, and must bring closer sympathy between the two powers.

True, the kingdoms of this world, as opposed to the

one universal Church, may exist and prosper while remaining separate and independent nations, but the order of temporal things and their bond with the Church will be of a higher nature when the partition walls betwixt people and people shall be broken down, all nations joined together in one, and the unity of the human race under one lord and ruler acknowledged. This was the idea which inspired the Popes with the desire to found the 'Holy Roman Empire,' whose sceptre would be respected by all mankind, and whose Emperor would deem it the highest of his prerogatives to protect the Christian Church. Hence Charlemagne, who was the first to wear the imperial crown, styled himself 'The protector of the Church and the humble assistant of the Holy See.' He declared it to be the noblest mission of his reign to 'bring peace, union, and harmony to all Christian people.' The Gospel was to be the law of nations. The State would consolidate the nations, while the Church would sow the seeds of revealed truth.

It was in this union of the Papacy with the Empire for the furtherance of one Christian Universal Roman Catholic monarchy that the mediæval conception of the State was rooted. 'God sent two swords on earth,' says the 'Sachsenspiegel,' 'to protect Christianity: the spiritual, belonging to the Pope, and the temporal, belonging to the Emperor.'

The imperial sovereignty, which had its first origin in a grant from the Pope, was in each separate case bestowed anew by the Pope on the occasion of the anointing and the coronation, its protectorate of the Church making it 'an especially holy office.' This protectorate, however, did not represent the highest

ideal significance of the imperial sovereignty; deeper still lay the cosmopolitan idea. The imperial crown, being the concession of the Pope, was not restricted to this or the other district, but since the crowning of Otho I. in 962 it was by general consent looked on as bearing sway over the whole German nation.

Each fresh coronation was a renewal of the contract between the Pope, who invested the new Emperor with his sanctity and dignity, and the Emperor, who swore to protect the Church. Their mutual vows manifested the close union of spiritual and temporal authority.

The Pope could exercise no influence over the election of the King. The German Empire was in no sense a fief of the Papacy, nor was the Emperor by his oath a vassal of the Pope; he merely promised to protect the Church and its visible head.

As guardian and protector of the Church, the Emperor was in duty bound to lead all Christian princes in the defence of the Faith against all unbelievers, heretics, and schismatics. 'As the bark protects the tree,' wrote the Emperor Wenceslaus to the King of England, 'so should the Emperor stand by the Church, ready to protect her at the price of his blood if necessary.'

The Emperor, albeit he was the highest temporal authority, could not aim at establishing a universal monarchy, at destroying nationalities or subjecting all other nations; it was for the Church, in whom all men meet as brothers, to accomplish an ideal union of this sort. All that was required of the Emperor was to establish among the nations of Christendom a system of organisation which might be of universal application. He was the first and most august monarch, the

corner-stone and the basis of society, embodying in himself all idea of lawful possession and earthly justice. 'Take away the imperial power,' said Peter of Andelau, in 1641, 'and who can say, "This is mine"?'

As chief protector of law and order, the Emperor was the arbiter in the strifes between the lesser princes.[1] During many centuries the title of 'Majesty' belonged only to the Emperor, who alone had the right to confer the title of King. Even at the time of the Empire's diminished political power both princes and people gave 'The Roman Emperor of the German nation' precedence over all Christian rulers.

Like the German kingship, the imperial dignity was dear to the German people, and its roots penetrated each stratum of the social system. In the greatest epoch of their history the people were proud of seeing their King elevated to the great honour of being the protector and guardian of Christian order. They willingly made the sacrifices which the maintenance of this position demanded. Under the name of the 'Romfahrt' ('Roman expedition') the Empire furnished the armed escort and equipments for the coronation. While the King was obliged to obtain the consent of the States for all other foreign expeditions, this one was excepted. The vassals were obliged, under pain of losing their fiefdom, to accompany the expedition to Rome in order to uphold the dignity of the nation; even those who were not called to go in person were obliged to contribute to its support. In order to anticipate any danger of the Emperor's being tempted to make use of this armed

[1] Thus, in the year 1338 Edward III. of England appeared before the Emperor Louis the Bavarian at the Diet of Coblenz to complain of Philip of France.

escort to further his private ambition, a law was passed by which the duties of the camp-followers expired on the day of the coronation.

Until its decline in the thirteenth century the Roman Empire of the German nation was the centre of all European national life, and its great territorial extent enabled it to protect Christian peoples from wars and revolutions. Formed from the three united kingdoms of Germany, Italy, and Burgundy, it extended from the shores of the North Sea and the Baltic to the Adriatic and the Mediterranean ; from the Rhone, the Tiber, and the Arno to the rocky fortresses of the Alps, whose passes were defended by its vassals. The Roman-German Empire occupied the middle district of Europe, and possessed such strength and influence as no other European power had enjoyed since the decline of the old Roman Empire. It never tried to subjugate the Roman nationality, or to interfere with its constitution. As King of Italy and Burgundy, the German sovereign merely took upon him the duties of the former rulers of those countries. Even in the matter of feudal rights, which formed so important a point of the politics of the times, the Germans always respected the usages which they found established.[1]

The unity and strength of the Empire depended on the inflexibility of the ruler in maintaining the laws, and it began perceptibly to weaken as soon as the Hohenstaufens, forgetful of this fact, endeavoured to exercise unlimited power and to disregard the independence of the Church and of the various German

[1] Ficker, *Das deutsche Kaiserreich*, pp. 76-81, and *Deutsches Königthum und Kaiserthum*, pp. 20, 52. The German principle, which leaves the conquered their customs, prevailed. Moddermann, *Die Reception des römischen Rechtes*, i. 3 ; Stobbe, *Rechtsquellen*, i. 26 and 260.

tribes. Frederic I. wished to govern the Empire according to the theories of the old Roman times rather than those of Western Christianity.[1] He proposed to revive the old Roman axiom that the Emperor was the origin of the law and himself independent of it. He presumed to dictate to the Apostolic See, and withdrew for a long time from the unity of the Church. Frederic II. went even further, and by emulation of Cæsar in his papistic assumption and by his Oriental despotism he inaugurated a long struggle with the Pope, which did much to weaken the influence of both.

The temporal power of the Empire, and therewith that of the German kingdom, was further weakened by the Hohenstaufen conquest of the foreign dominion of Sicily. By this step the centre of gravity of the Empire was removed from Germany to Sicily, and Germany took a subordinate position. In the reign of Frederic II. the Empire fell under the usurped power of petty princes, and the general interests of the nation suffered; the ties which bound the different German races were relaxed, and the Crown ceased to form an efficient centre. From year to year the princes strove to increase their domains, an end, indeed, which Frederic contributed to when, by the suppression of the duchies of Saxony and Bavaria, he destroyed the real status of the German tribes. The right to choose the King, formerly shared by the whole nation, came to be regarded as the personal privilege of a few princes who claimed it unlawfully.

[1] It was the Italian idea of the imperial power which originated the despotism introduced into Germany later by the supporters of the Roman Code. 'Nitsch. Staufische Studien,' in the *Histor. Zeitschrift* of Sybel, iii. 352.

The national traditions, however, were preserved to a certain extent. Even after the decadence of the greater number of the ducal houses, and after the right to elect the King had been usurped by the electoral princes, the union between certain princely houses and ducal cities, grounded on tradition and treaties, was so close that it served as a basis for the later division into circles, which lasted until the fall of the Empire.

Royalty and the Princes since the Interregnum

During the interregnum all the internal affairs of the Empire had fallen into such a state of disorder that the French writer, Charles de Luçon, who had sojourned some time on the Rhine, felt justified in speaking of 'The end of Germany.' [1] Popular pressure, however, and the menacing attitude of the great Rhenish Leagues formed to oppose the usurpers obliged the electors to choose a sovereign worthy of the name.

With Rudolph of Hapsburg in 1273 began an attempt at a re-establishment of the Empire. The new sovereign restored peace and order. He destroyed the power of the Bohemian king Ottocar, and, with the consent of the States, won back to his dominions Austria, which had been taken by the Czechs. Had the succession to the throne continued hereditary, Austria would have restored to the new kingly race all the domain that the Crown had lost, and thus Germany would again have become a united monarchy embracing all the various tribes. It was not in accordance, how-

[1] Pierre Froissart's *Lettres*, p. 7.

ever, with the selfish ends of the electoral princes that there should be a strong central government and a united nation. After the death of Rudolph they inaugurated a shameful traffic of votes, and raised the feeble Adolphus of Nassau to the German throne. Adolphus was well-pleasing to them so long as he allowed himself to be used as a willing tool, but directly he began to assert his independence, and, supported by an army of mercenaries, declared his intention to 'be King and to act as such,' they feared that he meant to be a new Cæsar and to subdue Germany. Thenceforward they began to plot his deposition. He seemed to them 'quite evil-minded and contemptible.' The princes then turned their minds to Albert, the son of Rudolph. 'But in him they were even more deceived,' says a chronicler of the times. Assisted by the burghers, who were anxious for the re-establishment of the unity of the Empire, and to whom he had appealed in 1301, Albert defied the electors, attacked their fortresses, obliged them to restore their ill-gotten possessions, and by removal of the duties opened up the Rhine to commerce.

In order to ensure the permanent loyalty of the burghers to the Crown, Albert did everything to advance the prosperity of the towns. He protected their foreign commerce, revived the corporations, and reformed the taxes, and was desirous of giving to the cities, through representatives at the Diet, a voice in the affairs of the nation. Such a measure would have exercised a far-reaching influence for good on the political constitution of the Empire; but base treachery interfered with all the great schemes of this King. He became the victim of a conspiracy of the princes, who employed the

unfortunate Johann Parracida as their tool,[1] and fell a martyr to the cause of the unification of the German Empire. After his assassination in 1308 the people longed in vain for 'a powerful lord and king; a ruler who, with the sword of the great Charles, would cut the claws of those birds of prey the princes.'

Albert's wise policy died with him, and all that he had tried to accomplish for the benefit of the Empire during his ten years' reign was lost to it. It is true that Henry of Luxemburg, his successor, somewhat revived the almost extinguished glory of the Empire by his expedition to Italy; but while he was seeking in Rome to recover the crown his power in Germany slipped away from him. After his death the double election of Louis of Bavaria and Frederic of Austria, brought about by the dissensions of the princes, paved the way for a new order of things. There was no longer any hope of a re-establishment of the Empire on the old basis. The double reign of Louis and Frederic forms a period of transition between the united Empire

[1] It was well known that Johann was the tool of the princes ('Fraudulento consilio principum iniquorum circumventus et traditus'). See Böhmer, *Fontes*, i. 486. In a poem of the time we read:

'Qui nullum timuit, quem nulla potentia fregit,
Qui sine fraude fuit, fraus hunc inopina subegit.'

Kopp, *Urkunden für die Gesch. der eidgenossischen Bunde*, p. 80. The earlier histories are full of calumnies against Albert, representing him as a tyrant. Böhmer's explanation of this injustice is the need of a supposed tyrant to give colouring to the William tradition. Modern historians have done justice to King Albert; Lichnowski, in his *History of the House of Hapsburg*, for example. Kopp robs the liberation of the Swiss States of much of its heroism by attributing it to the weakness of the German Empire. 'King Albert,' says Franklin, 'always showed himself a good King to his loyal subjects; the guilty he punished severely. He is acknowledged to have been a just judge. It was a general misfortune that his reign was so short' (*Reichsgerichthof*, i. 144).

and the State Confederation, which gained legal recognition in 1356 through the famous 'Golden Bull' of Charles IV.

By the ordinances of the 'Golden Bull' the right of electing the German King was made over to the seven electoral princes—viz. the three ecclesiastical dignitaries, the Archbishops of Mayence, Treves, and Cologne, and the four laymen, the Count Palatine of the Rhine, the Duke of Sachs Wittenberg, the Margrave of Brandenburg, and the King of Bohemia. This 'Bull' also established the indivisibility of the electoral principalities and the right of primogeniture in the lay palatinates. It ensured to the electoral princes the royal privileges which they then enjoyed, such as the working of mines within their possessions, the coining of money, and the levying of taxes. It gave them judicial rights, in virtue of which no dependent of theirs could be cited before other tribunals than their own. Appeal to the Imperial Court was permitted only in case of denial of justice. Finally, it decided that an attempt made on the life of an electoral prince was as criminal as if made on the Emperor.

The fate of the Empire was thus delivered over to the seven electors, and the dominion placed in the hands of the princes. Already in the reign of Charles IV. many of the electoral privileges were accorded to other princes.

In order to guard against the possible rebellion of the estates, especially those of the burghers and the nobility, against the threatened encroachment of princely power, the 'Golden Bull' further enacted that no confederations should be allowed without the sanction of the sovereign princes. This prohibition, however,

proved useless. When Charles IV. in an unprecedented manner extorted large sums from the cities and delivered up to the electoral princes several imperial towns in pledge, the famous Suabian League was organised, and in a short time all the South German towns entered into an almost independent confederation with the view of insisting on a more general representation of the people in public affairs of government. The Rhenish, Franconian, and Bavarian towns joined the Suabian League. This was the last great effort to re-establish the Empire on the basis of more general representation, and to procure for the burghers a more prominent share in the administration.

'The League was formed,' writes a contemporary chronicler, 'in a spirit of greatness and liberality, for the benefit and advancement of the towns and provinces; but it was turned to a bad account. In the first great "town war," in 1388, the power of the burghers succumbed to the superior might of the princes, and thenceforward the burgher element has always occupied a subordinate position in the government.' 'Under Wenceslaus,' writes a chronicler, 'the Holy Empire became weaker and weaker; there was no right or justice to be obtained, and the powerful might oppress the weak without fear of punishment. . . . Ruprecht, the successor of Wenceslaus, means well, but he has not the power to prevent wrong or to uphold right.' In the year 1407 an honourable burgher wrote: 'King Ruprecht is good and noble and would like to influence the princes, but I fear he cannot, for he is poor.' In proof of the impoverished condition of the Empire we may refer to King Ruprecht's will, which directed that after his death his crown and other jewels

were to be sold to pay his apothecary, smith, shoemaker, and painter in Heidelberg, and other poor people in Amberg and elsewhere.

Another chronicler writes: 'After Ruprecht there came to the throne King Sigismund, who had many mighty lands of his own, and often said it was his desire to reform the Empire; but his heart was more with his own lands than with the Empire. Besides, he was not firm of will—to-day wishing this, to-morrow that. But the princes are more to blame than he: occupied with their strifes and jealousies, they think more of themselves than of the public good.' Sigismund complained that 'the crown is no longer a joy and a glory, but a burden almost too heavy to bear.'

The change which the 'Golden Bull' made in the electorates gradually extended to the other princely territories. The prelates, knights, and cities who before had acknowledged merely the protection and judicial or feudal rights of the princes were reduced to a kind of vassalage, and out of the fragments of dismembered territories the princes managed more and more to construct for themselves connected principalities.

The kingdom, once so united, seemed but a tangle of loose threads joined together by the frailest bonds. The King was little more than the steward of the kingdom, and the revenues were so reduced that in the time of Sigismund they amounted to only thirteen million florins.

And while the revenues were thus diminishing the change in the character of warfare which resulted from the invention of gunpowder had thrown the old feudal military organisation into a pitiful condition. The Hussite wars left an indelible brand on Germany. At

home private quarrels prevailed, and abroad the Empire inspired neither fear nor respect. A chronicler wrote: 'The princes and rulers are making us the laughing-stocks of the world by their incessant quarrels. Incendiarism and pillage are laying waste the land. The princes are to blame that the Empire, once so mighty, has become powerless. In Italy and Germany there is no longer any respect for the Roman Emperor of the German nation.'

Thus sings a Franconian poet of the time: 'Thou wert once so proud, O beloved kingdom! Honoured and respected of all nations. Now art thou fallen, grovelling in the dust. Those who should protect thee live but to plunder. The princes are the plunderers of thy fame! Oh that an avenger of the people and the Empire might appear!'

For a short time after the accession of Albert II. of Hapsburg there seemed once more hope that a ruler had arisen who would restore peace and justice to the nation, and compel the princes and petty powers to respect the rights of the people. In 1439 William Becker wrote: 'I am not without hope. Albert is a powerful sovereign, experienced in war, indefatigably active, and well supplied with men and money.'

No ruler who ever ascended the throne had inspired greater hopes than Albert. The cities cherished the confidence that he would oppose the lawlessness and injustice of the princes and lords. The Council of Spires congratulated the cities on having a king of the Austrian House. Ambassadors who had visited the Court spoke of Albert as 'a king possessing the true German spirit, and who would be favourable to the

cities.' All his contemporaries, even those opposed to Austria, spoke of his justice and energy.

In the plans for reform with regard to public peace and the better administration of justice which Albert proposed to the Diet at Nuremberg in the year 1438 he pointed out the most prominent matters which required political improvement. Ignoring petty personal differences, he proposed that, 'for the sake of the general peace, the Empire should be divided into four districts, each district to be under the surveillance of a royal overseer.' A judicious contemporary remarked that 'should this plan be carried out, it would do much to strengthen the power of the King through those four governors, who would be responsible to him alone. The King's responsibility thus strengthened, the executive power to oppose evil-doers and to carry out the demands of justice being placed in his hands, he will be in a position to re-establish order where nothing but confusion reigns, and to make his kingdom and his people respected. He can turn his attention to reconquering the States which belonged to the Empire. What King Albert says, he means. I heard him say that, with the help of the people and the nobility, he would show the princes, by force of arms if need be, that the Empire must have one supreme ruler.' Unhappily for Germany, premature death took Albert from his people in the second year of his reign.

Then followed the disastrous fifty years' reign of the cautious and hesitating Frederic III., in which both the internal politics and the foreign power of the Empire suffered. Under him the princes, particularly after being still further strengthened by their victory over the cities in 1450, were able to consolidate their dominion

more and more firmly, to the great prejudice of the people. Frederic did not make the slightest attempt to punish the despisers of his name and honour, the powerful princes who, indifferent to the glory of the Empire, thought only of themselves and their own interests. The chronicler of Spires complained: 'He was a useless emperor, who did not understand how to put down wars and disturbances in the provinces of the country. He remained quietly in his own land, and no further help could be obtained from him than what he could render through letters. During twenty-five years he did not once make his appearance in the kingdom, so that it was hardly understood that there was a ruler or a protector. It was not only his declared enemies who attacked the imperial power. The princes who professed to be friendly toward him did him quite as much harm by their acts of violence: for instance, that Margrave Albert Achilles of Hohenzollern, with his mystic utterances that no one could understand, who used to say that "incendiarism is the ornament of war as the Magnificat is of the Vespers," and whose favourite axiom with reference to his politics was, that he who does not confess will not be blamed.' These mottoes seemed characteristic of the power of the princes.

Importance of the Cities

Although the cities did not succeed in suppressing the usurpations of the sovereign princes, or in gaining recognition for the equal rights of the free cities, they remained sufficiently strong to prevent the Empire being broken up into a number of separate principalities and dominions. In them essentially was kept up the

tradition of the oneness of the Empire and the union of all the tribes under one supreme sovereign.

Whereas under the feudal *régime* the fundamental idea of political life had been that of service rendered to a superior chief, in the later municipal constitution the basic principle of union came to the fore. According to this principle, all distinctions and rights are, as it were, the free expression of the sense of the community; all gradations of authority, from the highest to the lowest, are based on the willing submission of free citizens to rulers elected by themselves.

By adhesion to this principle the large cities managed by degrees to get the whole administration of their affairs into the hands of the citizens and the burgomasters and councils chosen by these. So long as they remained true to honour and love of independence the object of their ambition was to protect their free right to vote. During this glorious period the free cities were the centres of civilisation and commerce, and were patterns of good and orderly government; or, as Machiavelli expressed it, 'They were the nerves of Germany.'

Independent of all princely government, the so-called 'Imperial' towns attained the highest political importance. Their progress was particularly marked in Suabia and the Rhine district, where, after the dissolution of the dukedoms, no princely family had acquired a prominent position. In these provinces there were over a hundred of these imperial cities, the principal of which were Aix-la-Chapelle, Cologne on the Lower Rhine, Mayence, Spires, Worms, Frankfort on the Middle Rhine, Strasburg, Colmar, Basle on the Upper Rhine, Bern, Zürich in the interior of Switzerland,

Schaffhausen, Constance, St. Gall, Ueberlingen, Ravensberg on the Lake of Constance, Kempten, Kaufbeuren, Donaworth, Boffingen, Memmingen, Augsburg, Ulm, Rottweil in Upper Suabia, Reutlingen, Weil, Esslingen, Heilbronn, Wimpfen, Halle, Nordlingen in Lower Suabia.

In Franconia also the dukedom had been dissolved, but the number of powerful ecclesiastical principalities there prevented the development of the *Bürgerthum*, or civil government, which, besides Nuremberg, could only boast of five smaller towns. The same state of things obtained in Westphalia, where there were only two imperial cities, Dortmund and Herford. In the three provinces of Austria, Brandenburg, and Bohemia there were none. In Bavaria, where the ancient ducal race had secured to itself the possession of a considerable district, Ratisbon was the only free city. In the remaining districts we may specially mention Lübeck, Bremen, Hamburg, and Goslar in Saxony ; Erfurt, Mühlhausen, and Nordhausen in Thuringia ; Cambria, Deventer, Nymwegen, and Groningen in the Netherlands ; Metz, Toul, and Verdun in Lorraine.

As in each of these cities the constitution and forms of government had grown up out of the special needs of the particular city and in accordance with its distinctive character, each was found to have peculiar laws and institutions of its own. While the foundation of their liberties was one and the same, their local laws varied to suit existing circumstances. Their different constitutions were often not less artistic structures, in their way, than the cathedrals which they had erected within their walls.

In the twelfth and thirteenth centuries the muni-

cipal government was exclusively in the hands of the patrician classes. From the beginning of the fourteenth century, however, we find the trade guilds gradually getting admitted to a share in the government of the cities—this result in some cases being accomplished peacefully and quietly, while in others it was only brought about by violent and bloody struggles. Finally, however, both patricians and burghers were associated together in the guidance of public affairs, and the civil organisation established on a natural footing. In many of the towns—as, for instance, Ulm, Frankfort, and Nuremberg—the patricians took precedence of the burghers; but in most of them there grew up a so-called 'Rule of the Guilds,' which was the groundwork of the city constitutions. All citizens, even though having no trade, were obliged to belong to some guild; and the same rule prevailed with regard to the patricians: or at least they had to form somewhat similar societies among themselves.

After, as before, the war of the guilds, in cases, too, where the burgher classes took part in the choice of the councillors, the city council was independent of the district laws. Generally it had the right to fill vacancies in the corporation at discretion, or at least to choose from the candidates proposed. It was only in exceptionally important cases of legislation and taxation that a general assemblage of the citizens was called; as a rule the council had full executive power in all that concerned the safety, order, discipline, prosperity, and honour of the community. Business was executed either in full assembly or by special 'officers' appointed for the different branches of affairs.

'In the interest of the honour, needs, and piety of

the cities,' a strict surveillance was maintained over commerce, exchange, and the prices of the necessaries of life, and constables were appointed for the supervision of buildings and the control of foreigners. One principal duty of the council was the management of the city economy. It determined the scale of the *indirect taxes* on grain, meat, wine, &c., and from the fifteenth century onwards that of personal income-tax. It had the control of all the expenses of the city: for instance, the preservation of its fortifications, buildings, roads, and bridges. The council paid particular attention to the armament of the city, and after the discovery of gunpowder we find it disposing of all useless weapons. The arsenals were kept well supplied with ammunition, the fortresses prepared for the reception of artillery; powder mills and cannon foundries were established. In the wars of the Empire the condition of the artillery depended in a great measure on the cities. Military exhibitions were among the favourite amusements of the citizens on feast days and after working hours. After the recruiting of mercenaries became common the citizens formed volunteer regiments and marched beneath the flag of their town, which they held in veneration, branding as a coward anyone who deserted it.[1]

This strong 'burgher' stamp, however, was not confined to the 'sovereign cities,' but showed its mark also in those towns which were subject to the authority of some ecclesiastical or secular prince, and which not

[1] *Lettres, par Pierre Froissart*, p. 19. Vittori in his 'Travels' wrote: 'E cosa da considerare in Alamagna, che in ogni minima villa v' è l' ordine ed il luogo, dove gli uomini si ridicono le feste, chi a tirare colla balestra, chi collo schiopetto, e così si assuefanno; e quest' ordine non si preterisce, ed in ogni terra e villa, dove io fui, lo trovai.'

seldom equalled the others in power and influence. Among the latter we may note specially the episcopal cities of Magdeburg, Halberstadt, Hildesheim, Osnabrück, Minden, Paderborn, Münster, Soest, Treves, Coblenz, Passau, Freising, Würzburg, and Bamberg. Others were Dantzic, Königsberg, Elbing, and Thorn, cities belonging to the Teutonic Order; the Pomeranian towns Greifswalde and Stralsbund; the Mecklenburg cities Rostock and Wismar; the Brandenburg cities Berlin, Brandenburg, and Frankfort-on-the-Oder; the Brunswick-Lüneburg cities Lüneburg, Brunswick, Gottingen, and Hanover; the Saxon cities Dresden, Meissen, Torgau, and Wittenburg; the Hessian towns Marburg and Cassel; the Bavarian towns Munich, Ingolstadt, Landshut, and Neuburg; and the Austrian cities Vienna, Grätz, Klagenfurt, and Innsbruck.

The provincial towns, as well as the imperial cities, possessed institutions and associations admirably suited to the social needs of the time. They also took a very prominent position in the framing of the constitution of the States.

Constitution of the States

The constitution of the provincial States, founded, like that of the cities, on the principles of unity, grew up chiefly out of the associations which the country towns and nobles and the prelates entered into in order to protect themselves against the princes. These unions secured to the people, up to the close of the fifteenth century, an extent of personal and civic liberty to which we scarcely find a parallel in any republic, ancient or modern. Thanks to them, the princes at that time enjoyed none of those privileges which came

later to be looked upon as sovereign rights; none of that legislative prerogative which arbitrarily overrode legitimate rights; no influence over the courts of justice; no control of the taxes; no tyrannical authority under the mask of interest in the public weal; no right of enforcing military service. The decision also of war or peace did not rest legally in the hands of any single individual.

The right to take part in the general assembly was gradually conceded to all those who had possessions in land. Thus the prelates, the knights and nobles, and the cities came to be represented. These three orders were called Estates of the Land (*Stände des Landes*). In some districts, particularly in East Friesland and the Tyrol, the free peasants had also seats and votes in the assemblies. The first estate everywhere consisted of the prelates, the bishop, the superiors of cloisters and abbeys (in ecclesiastical districts canons took precedence).

Although representative government was not the root idea of the constitution, yet the States dealt with the affairs of their respective provinces, and called themselves 'The representative Corporation of the Country.'

As a rule, each prince on his accession was obliged to swear fidelity to all written and traditional customs, and it was only after he had conferred a charter of rights that fealty was pledged to him. Thus in 1506 Duke Albert IV. of Bavaria directed that every prince's son or heir should, on receiving the vow of fealty, 'secure to the State deputies of the prelates, nobles, and cities their freedom, ancient customs, and respected rights; and pledge himself not to interfere with them in

any way.' The formal clause, 'The land and each inhabitant of it shall be undisturbed in their rights and customs,' was a sure guarantee against all arbitrary legislation of the princes, without 'counsel, knowledge, or will' of the Estates-General.

Not unfrequently the States formed leagues among themselves in order to compel the recognition of their rights before pledging fealty to a prince, or else to oblige him to keep his promises. Often they declared publicly their determination to stand by each other against anyone—the princes not excepted—who sought to rob them of their freedom or rights. The sovereign princes acknowledged, as is proved by many documents of the times, that the States had a right to refuse them obedience, and to defend themselves with arms in case their privileges were infringed. In 1471 Frederic, Duke of Brunswick-Lüneburg, declared: 'If (which God forbid) our prelates, subjects, or cities, either alone or collectively, be wronged by us or our heirs or successors, we authorise them individually or collectively to resist us, and to continue in arms against us until they are righted, without restriction or protest.'

In many districts courts were established to investigate differences between the sovereign princes and the States, and to 'settle them peaceably or else demand justice.' The authority of the States was higher than that of the prince, and they had power to judge him, just as, according to imperial law, a court of the princes had power to impeach the King when he was false to his oath, and betrayed the privileges of the Empire. Should the prince resist the sentence, his subjects had a right to compel him by force of arms; but generally he yielded to the assembly, for he had not the necessary means

for enforcing his will against theirs: he had no standing army, and no money at command; the nobility had control of the arms, and the prelates and the cities held the purse-strings.

The State authorities prevented evil advisers or enemies to the public good from being near the princes, taking care that their counsellors should be persons independent of them, and intermediaries between the States and the sovereign power.

Usually the convocation of the States proceeded from the sovereign prince, who presided in person at the assembly and very often took part in the deliberations. The States formed altogether a united body, although the deliberations were not everywhere conducted in the same manner. In some of the principalities the representatives of the prelates, nobles, and cities formed one body, while in others each class voted independently. Generally questions were decided by the voice of the majority, but often it required a unanimous vote to carry a measure. Sub-committees were often formed at the close of the session to see that the resolutions were carried out, particularly in the matter of money grants accorded to the sovereign by the consent of the deputies.

The levying of taxes was among the highest rights of the States; no prince had any prerogative in this matter. The consent of the Estates-General to the levying of a new tax, of whatever nature, must be 'voluntary and uninfluenced.' Taxation was only temporary, and for a specified purpose. Should the sovereign prince presume to impose an exceptional tax, the States had the 'chartered' right to oppose it by force of arms.

The more luxurious and expensive the princely households became, the more onerous were the exactions; but in the same proportion the power of the States over the revenue and expenditure of the kingdom increased. Thus in Bavaria, in 1463, the laying out of the income derived from taxation was entrusted to them. The Dukes Johann and Sigmund declared in a charter: 'The revenues collected shall be made over to those appointed by the States, and shall be by them distributed to the princes for the benefit of the States, the country, and the people.' In order to prevent the depreciation of coin, the States kept the direction of the entire currency in their own hands.

The more the princes were dependent on the States for the money supplies they were so greedy after, the more were the States able to strengthen themselves in other branches of administration. They took advantage of their power of levying taxes to secure the passing of a law preventing the princes, without their permission, from building dungeons or castles, from entering into any leagues, from declaring war or making peace. If they were not consulted on such occasions, they simply refused to vote the necessary assessments. In many cases the States acted as mediators or umpires in the strifes between their princes and foreign Powers. They were even called on to decide in cases of disputed succession to the throne, of regencies in case of minor heirs, and in cases of disputed inheritance between allied houses. Without the authority of the States no partitioning of lands could take place and no portion of land could be alienated or mortgaged.

The authority of the States over the sovereign princes became so great that the French chronicler

Pierre Froissart, writing on the subject, said: 'As the princes have brought the Emperor to a state of dependence, and allow him only certain superior rights, so in turn are they dependent on the pleasure of the States.' [1]

The German Code and its Relation to the State

The constitutional limitation of the government by the States was one of the strongholds established by German imperial law for the protection of the people against arbitrary violation of their rights. It was most closely bound up with the whole Germanic conception of the nature of law, freedom, and honour, and the relations of the law to the State.

Starting from the assumption of a higher, Divine order of the universe, the German theory of legal right acknowledged all justice as proceeding from God, and therefore based all relations of social life on dependence upon Him. Accordingly, it teaches that justice is not merely a law made by men to suit their own convenience, but an expression of the will of God—a law which, like the moral code, has God for its origin. Hence the 'Sachsenspiegel' commences its exposition of the theory of justice with the words, 'God is justice and loves justice'; and the commentator adds, 'Justice is the eternal law of God,' and in another place, 'Justice originates in Nature and habit'; 'The natural law is God's law, for He has given it to His creatures.' 'All law proceeds from the natural law, and therefore must it take precedence of all other laws'; 'Laws which have been made by men may be superseded by

[1] *Lettres*, p. 17.

other laws, but the Divine or natural laws are unchangeable.'

Legislation formed on the moral law and the Divine revelation contains full protection for individual rights, which are the development of legislation, and should be formed on and by it. Individual rights are not only sanctioned by God, but are, as it were, things for which mankind is responsible to Him. They cannot be arbitrarily violated without sinning against God. Every legitimate right—that is, every right sanctioned by morality—is, according to the German acceptation, inviolable, whether as relating to individuals or to the acknowledged authorities. All rights, whether of State authorities or of individuals, are under the control of this higher law, and not *above* it. The moral law, out of which the legitimate right springs, and from which it derives its character of inviolability, is not created by the State, being older than the State, and existing from the beginning. The State is, so to speak, a power created to carry out the moral law, to strengthen right and destroy injustice. Hence the Emperor has been called 'The highest protector of right,' 'The judge of the Empire'; and during his coronation, prayers are offered that he may obtain wisdom and *justice*—that he may strengthen the right, and lead the people in the ways of *justice*. The most enviable reputation which an emperor could enjoy was to have been 'a strong friend of *justice* and a *just* judge.'

Through its protection of legitimate rights the State secured freedom to the people. According to the German acceptation of the word, *freedom* was security to regulate life according to the moral law and the Divine revelation. The mission of the State was to protect the

individual in carrying out his vocation. But as the means for carrying out different vocations differ, so did the German law strive to meet all cases. It held that equal justice did not consist in having the same advantages secured to all, but that each should be protected according to his necessity; not that one could do as another did, but that each should be protected in doing what the moral law obliged him individually to accomplish. The result is that individual rights should be limited by moral principles, and that the suppression of public immorality should not be looked on as a restriction of freedom.

Man's loyalty consists in unselfish devotion to the fulfilment of what he considers his duty. Loyalty and honour have a deeper signification than the popular acceptation of the words. The commentator on the 'Sachsenspiegel' says: 'Almost all honour proceeds from loyalty, which is rendered for three different reasons—first of all, for benefits received and oaths pledged (loyalty of this sort should exist reciprocally between the lord and the vassal); secondly, from relationship, or the tie of blood, which kind is according to the natural law; the third kind of loyalty arises from what one owes to oneself, and is the loyalty man practises when he upholds what is just and lawful. For there is no nobler service than to support the holiest obligations and fight against evil of every sort. The honour which arises from loyalty to duty and right is a much more precious possession than freedom. It is the highest and only inalienable good possessed by man, and for the preservation of it he must be ready, at any moment, to yield up, not only wealth and property. but life itself. For,' says the commentator,

'wealth without honour is worthless, and life without honour is worse than death.'

He who has forfeited his honour has forfeited his rights, for rights have been confided to man that he may use them for a higher end; and it cannot be expected that he who has lost his honour is capable of carrying out his higher destiny. He who has betrayed his honour has lost his rights, and should he belong to a society, whether it be communal, industrial, or guild, he loses the rights accorded to him on his entering it. According to the German Code, 'He alone has rights who is honourable and honest.'

Inasmuch as his honour is the most precious treasure man possesses, he is not only allowed, but morally obliged, to demand satisfaction if it be defamed, and indifference under the circumstances would be reprehensible. Honour requires that man tolerate no injustice, and that he should stake life and prospects to maintain his rights. As the German idea of honour taught that man was obliged to assist his neighbour in all things right and commendable, so did it insist that he should help him in maintaining his honour. This 'noble passion' was the foundation-stone of German rights.

In order to protect right and honour from any arbitrary encroachments of public authority, the German Code required all public functionaries, from the Emperor downward, to submit their acts to a court of justice, and it sanctioned and upheld resistance to all unlawful encroachment. It restrained the power of the States, whose highest prerogative was to protect the legitimate rights of the citizen. It recognised the right of each profession or trade to whatever was

necessary to its development, and its right to organisation for its own protection. Finally, it made the judicial power independent of the executive, whose duty it was not to determine what was justice, but to see that what was just was carried out.

The German Code developed itself out of the living inner consciousness of the nation, and was in the strictest sense its own special property. Its deepest roots sprang from the customs and traditions which were the incarnation of the popular conscience and ideas of right. 'Good customs,' says the 'Schwabenspiegel,' 'are as strong as the written word. A good custom is that which is not opposed to Divine or human law, not contrary to honour or salvation.'

The popular feeling was especially expressed in the so-called judicial traditions—that is to say, in the uniform decision of contested cases by the verdicts of the national courts. The decisions and regulations of the various independent guilds and authorised corporations, as well as of municipalities and country communities, ranked with precedents and judicial customs as further legal sources.

As the emperors seldom deliberated with the assembly over general laws and regulations, and the princes possessed no legislative power in their territories, the various classes in town and country formulated, by common debate and consent, codes suited to their peculiar needs. The princes consulted with the States, the mayors with the city councils, the lords with their vassals and tenants, the different guilds according to their respective organisations. The law-books dating from the twelfth century contain no new code of jurisprudence; they are as it were the

crystallisation in written form of the old laws that had been handed down from successive centuries. Among the most important of these collections we would mention the 'Sachsenspiegel,' the 'Schwabenspiegel,' and the 'Deutschenspiegel,' all agreeing with each other.[1]

As not only each province, town, and village, but every condition and calling and every relation of life, had its own rights, there existed an endless collection of laws and bylaws, which, although differing greatly from each other in detail, owed their origin to the same principles and conception of right; and, in spite of endless variety of form and application, all give evidence of the union which pervaded the entire Empire.

Legal Procedure

The methods of legal procedure were throughout in accordance with the character of German law.

As every State and position had its own particular code of laws, and as all alike—peasants, burghers, and princes—lived, as it were, 'according to their own legislation,' the principle that 'every man must be judged by his peers' prevailed universally. The prince as well as the peasant looked for justice to tribunals belonging to his own class. Hence, notwithstanding the distinct differences of caste, all classes enjoyed real independence. This simple state of law procedure

[1] The *Schwabenspiegel* considered the law of custom as binding as the written law, but at the same time expresses a wish that all laws should be written. See Franklin, *Reception*, p. 165. In the fifteenth century there were five thousand copies of the *Sachsenspiegel*, which was a digest of the laws in force, distributed in Westphalia and Saxony alone. The *Schwabenspiegel* was more particularly a collection of the imperial edicts. Stobbe, *Rechtsquellen*, i. 360; Franklin, p. 167.

survived until about 1460, and preserved up to that time its thoroughly German character. All civil procedure was based on open discussion; all criminal procedure presupposed accusation. Without public accusation there could be no trial or sentence.

The drafting of the laws was done in the simplest fashion, and required no expensive staff of officials. A judge, court, or magistrate decided difficult cases, but only as the mouthpiece of the jury. The judge himself had no voice; his business was merely to receive and to pronounce the verdict.[1] The assessors, justices, or judges were men of the people, uneducated, but honest, intelligent, and experienced in the traditional customs, and sworn to decide honourably.

All trials had to be held in public, and the interested parties were required to be present, so that the judge had a better opportunity to decide fairly than if he was obliged to listen to a subtle advocate interested in prolonging cases. The tribunals were also open to what were called 'law inspectors'—that is, freemen of the community who gave or received evidence and decided together on questions of right. They were also expected to see that nothing contrary to the ancient traditions crept into the proceedings. These did not decide questions, but were often taken into consultation by the judges and the interested parties.

Mediators were allowed, and accusers and accused were invited to have recourse to them. Any 'irre-

[1] The *Schwabisches Landrecht* acknowledges that there was much more learning among the legal authorities of the new code. See Maurer, *Gerichtsverfahren*, p. 107. An item in the 'Soester Gerichtsordnung' required that the judges 'should sit on the bench like a raging wolf.' Emminghaus, *Memorab. Susat.* p. 396. For notices of the humour of the German courts, see *Kölnische Volkszeitung*, 1878, No. 12, p. 3.

proachable freeman' had the right to present the case of his client to a judge, but always in the presence of that client or his representative. Middlemen, who in the absence of the interested parties furnished written accusations or proofs, were unknown in those days. Nor was there yet any body of professional advocates who made their living out of lawsuits, and whose interest it therefore was to stir them up. On this point the author of the 'Welschgattung' says: 'With us, commentators on the law are unknown. There are no ambiguities in justice; the poor man's protector is the law which God gave him. We tolerate no advocate. Neither money nor favour obtains a verdict. Justice is not bought.'

As all courts were public, so all examinations were conducted in the presence of the parties interested, and the sentence publicly passed. The result of this publicity was to establish a closer bond between the judges and the people, and suspicion and distrust seldom entered in. The judge found his greatest reward in the respect of the people, and the tribunals were held in the highest estimation.

This publicity had incalculable advantages. The fear of a public sentence and loss of respect deterred many from making, or mediators from defending, a false charge. It also awakened a sense of right in the people, and made them acquainted with the laws, which thereby became popular. The people were their own living code. When in later times this spirit in favour of 'open court' was abandoned, the popular interest in public affairs and in the good or ill of the nation decreased.

As another result of the publicity given to judicial

proceedings and of oral accusations, answers, proofs, mediations, and sentences followed quickly. It was only at the request of the interested parties that decisions were reserved or written.[1]

When the decision was reached it was announced, and considered final unless immediately appealed against. No judge or ruling power, even the Emperor himself, could change the sentence, without the permission of the person in whose favour it was decided, in either civil or criminal suits. Being entirely independent of any outward influence, no court was obliged to receive the sanction of any higher authority.

Should a decision be appealed against, the case was immediately tried by another court, not necessarily considered superior, but composed of the same elements and guided by the same principles. In doubtful cases, either in city or country, the judges took counsel with a neighbouring court. In such circumstances the opinion was gratuitous and never refused; hence it was called 'National alms.'

In a great many cities, however, there were higher courts, called 'Imperial.' They were not a superior court composed of learned judges, but of men of the people, experienced in controversy, who decided debated points or sentences appealed against. The cities which were founded in later times still appealed to the courts of the older ones, on whose model their constitutions were formed. This brought about a good deal of judicial intercourse, not only between towns of the

[1] As an example of the promptitude with which sentences were executed, 'On the first Monday of Lent in 1470 Claus Antonius stabbed a fellow-workman in the neck, killing him immediately. That same evening the murderer was tried and decapitated.' Müller, *Annal. Saxon. ad Annum 1470*, p. 40. See Maurer, *Gerichtsverfahrung*, pp. 283–289.

same province, but between provinces of different political aims. Freiburg in Breisgau was the 'sovereign' court for more than thirty-nine places, Cologne for seventy, and Frankfort-on-the-Main for sixty. The decisions touched multitudinous questions, and the 'sovereign courts' became important factors in the legal system of Germany as well as in the neighbouring countries. Frankfort was the sovereign court for the Middle Rhine, Cologne for the Lower Rhine and Southern Germany and Lübeck, and Magdeburg for Northern Germany and adjacent countries. Many of the records of Magdeburg and Lübeck bear witness that those courts existed in the fifteenth century.

As a rule these courts answered all the ends of justice, and met the necessities of the age. The records of the fifteenth century give us many proofs of the ability with which the national law was administered, and many statutes still extant are examples of clearness and strength.

The spirit of the national law was still prominent in the popular sense of right in the fifteenth century. Until its close it was evident in all the customs of the people. No foreign code had undermined its unity or weakened its force.

Weakness of the Administration of Justice

In the year 1453 Pierre Froissart wrote: 'The German people stand by their laws; the old legal customs and courts are looked on by them as the best inheritance left them by their forefathers; but there is general complaint, and apparently with reason, that the administration of justice in the various courts has fallen off, and that when a sentence is passed, the power to

carry it into execution is failing. Private quarrels have become the curse of the country, and the robber-knights infest the roads without fear of punishment.' [1] These words of Froissart depicted the worst stage of German administration of law.

The right of private warfare was acknowledged by the imperial ordinances, and was used by every freeman on the slightest provocation. This right was not, however, allowed without restriction, but only for grave reason and after redress had been vainly sought from the courts, or when the authorities refused or had not the power to interfere. For instance, an ordinance of 1235 directed that 'If a man be injured he shall not revenge himself, but complain to the judge; having lodged his complaint, he must not be held responsible for attacking enemies.' A like ordinance in Frankfort in the year 1438 says: 'No one must injure another before having cited him before the court.' It decrees further: 'And if justice be denied him in the various courts, he must not attack his enemy before having given him three days' notice.'

Certain formalities were required by the law which allowed the right of private warfare. The combatants were obliged to give three or four days' notice before beginning; they must refrain from hostilities on certain days called 'The truce of God.' Certain places and persons must be respected; for instance, clergymen, pilgrims, labourers, vine-tenders, all churches and cemeteries. All who did not respect these rules, and had recourse to arms without having sought legal redress, were held as law-breakers, and generally punished with the halter.

[1] *Lettres*, pp. 5, 6.

In later times, in proportion as the power of the Empire weakened, and consequently the influence of the States and the courts became less, private warfare increased—avarice and greed on the part of the princes being frequently the excuse—and villages, fields, and small towns were destroyed. A margrave of Brandenburg was heard to boast that in his life he had burned one hundred and seventy villages. As a general rule, the strifes between the great men of the empire came to be decided by force of arms rather than by appeal to law ; and settlement by arbitration became more and more rare. This was the result of the inefficiency of the imperial courts, and the entire want of confidence in them.

The requirement of the German law, that the Emperor should preside in person at the imperial tribunal, and be responsible for the conscientious carrying out of its decrees, was certainly of the greatest importance as regarded the position of the ruler and his people ; but there were also great disadvantages in a system by which the fate of 'the highest imperial court,' or, as we find it sometimes called on account of its national importance, 'The Empire itself,' depended on the movements of the reigning power. The fact that the court had no fixed seat, and was obliged to accommodate itself to the journeyings of the Emperor, would deprive a great many of the opportunity of appealing to it for protection.

When the rulers of the House of Luxemburg had fixed the seat of government and the highest courts on the eastern boundaries of the empire, the protection of the law must have been but feebly felt in the interior ; and it was still worse under the reign of Frederic III.,

who was not seen in his kingdom for ten years at a time.

After a long and dangerous journey, those coming to seek redress at 'the highest court' were told that there was no court sitting, for want of a judge. The supreme court was not a regularly organised institution, and had no permanently appointed judge, but was presided over by those whom time, circumstances, or political bias placed in authority.

Even the ablest and best-intentioned ruler could give his attention to the administration of justice only when public affairs allowed him the time. War with foreign enemies and the suppression of interior dissensions would necessarily interfere with holding court. The carrying out of sentences, the punishing of insubordination, the chastisement of violence, and the execution of justice, depended on the power and ability of the ruler.

Loud and bitter complaints were made against the arbitrariness and expense of the courts during the reigns of Sigmund and Frederic III. The former made and reversed decisions according to the condition of his treasury. 'At the courts,' said a representative from Frankfort, 'gold can buy anything.' The same writer described the usual law proceedings under Frederic III. by the words, 'Delays, injustices, complaints receiving no attention, judgment always reserved. The people speak very ill of our lord and master, saying that he is slow and never ready. From many cities we hear complaints that they cannot get justice from the sovereign court or the chancery.' The maxim for the administration of the law seemed to be, 'Much money, short time; little money, long time.'

The same state of things existed in the other courts, which had only a limited jurisdiction ; nor were matters better in the courts of the princes or in the lower courts. The evil was universal. The princes and nobles were too much occupied with their private quarrels to give their attention to the administration of justice, and often used their authority merely to increase their revenues.

Gregory von Heimburg said : ' The difficulty of obtaining justice from the great and powerful has become the curse of the people. The princes have become the tyrants of the nation, which could not brook one ruler, but now bows beneath the yoke of many. As there is no redress to be had against the mighty ones, these do as they please, and the greatest outrages go unpunished if committed by any of them. There is no fear of the law, no order, no peace.' During the Diet of Ratisbon, in the year 1454, Johannes of Lysura said : ' Germany is rich and has a superabundance of good things, but she has no peace ; on account of bad administration of her laws the empire will be destroyed. The clergy have no peace, the nobility forget their honour, the robbers devastate the land. We all detest war and long for peace ; we complain of the general insecurity, but we fail to find the remedy for our ills. Without justice there is no security, without strong laws there is no peace. In truth we may say the Emperor is here to do justice, and is responsible when the law is not carried out ; but where will he find the means to sustain the courts ? and who will help him to carry out the sentences thereof ? In vain the law is proclaimed, in vain are courts instituted and judgments given if the hand of authority be weak.' The urgent necessity of reform was felt on all sides.

Proposals of Reform

The noblest plan of reform for restoring the decayed system of legal procedure to an honourable condition, and re-establishing order generally in the dismembered Empire, was set on foot before the middle of the fifteenth century by the same man who came forward also as pioneer reformer in Church and science, viz. Nicholas of Cusa. The account of this scheme is to be found in his work on ' Catholic Unity.'

' The Empire is attacked by a mortal sickness,' he says, ' and will certainly perish if a cure be not immediately found.' He attributes the principal blame to the indifference of the Emperors, who believed they could find a remedy in gentle means, and to the avarice of the princes, who, as the power of the Empire decreased, seized on every possible privilege for themselves, regardless of the interests of the nation. ' What but ruin is to be expected when each one thinks only of himself ? If the sovereign hand has lost its power to quell interior dissensions, avarice and greed will prevail, war and private quarrels will increase, the dismembered Empire will go to ruin, and what has been unjustly acquired will be recklessly squandered. Let not the princes imagine that they will long retain what they have plundered from the Empire ; when they have broken all the ties which bind the States, and mangled the head and the limbs, there must be an end to all order and authority ; there is no one left to whom to turn for help. And where there is no order there is anarchy, and where there is anarchy there is no more safety for anyone. While the princes are fighting

among themselves a class will arise who know no right but the force of arms, and as the princes have destroyed the Empire, they will in their turn be destroyed by the rabble. Men will seek for the German Empire and not find it. Strangers will divide our land, and we shall be subject to foreign Powers.'

'How much better it was,' argued Nicholas of Cusa, 'when the Emperor was the all-powerful guardian of the public peace, a protector of the weak and a terror to the wicked; when the princes and barons were the representatives of the Emperor, and owed their power to him; when disloyalty did not go unpunished, and the Emperor, either in person or through appointed judges, presided in the tribunals and saw justice done to his vassals. Then the mighty could not transgress the laws with impunity; the Diet watched over the safety of the constitution, which existed by the unanimous sanction of the people, without which it is a dead letter. Peace and happiness reigned in Germany. The Emperor was feared by the princes and loved and venerated by the people as the defender of the public peace, the liberator of the oppressed, and the judge of the evildoer.

'That happy time is passed. Law and order have disappeared with the introduction of the unhappy system of private warfare, which results in the mighty availing themselves of every opportunity to oppress the weak. Under plea of this so-called *honour* the law has been *dishonoured*, and the nobles flatter themselves that the sending of a wretched letter of challenge authorises them to retain by force what they have plundered under one pretext or another, or without pretext, even though it be Church or ecclesiastical property. Truly

is this a desecration of all law, inasmuch as it separates honour from justice, which insists that no man can retain what is not honestly his. Is it not the law that every such protest without the authorisation of a judge is invalid ? and that he who possesses himself of the goods of his neighbour in this wise is guilty of theft ? Is the Church property the possession of any one prelate or priest, and shall the sin of a prelate be cause of wrong to the Church ? How, O Nobles ! can you think these challenges honourable that you send to prelates, or clergymen, or convents, and who is so mad as to contend for the honour of a sacrilegious act, which is robbery to the Church and deserves excommunication ? '

Absolute repeal of the right of private warfare was necessary for the restoration of public peace and the reorganisation of administrative justice. To effect this Nicholas of Cusa proposed that the kingdom should be divided into twelve or more districts, each having its own imperial tribunal, consisting of three sworn judges, one a noble, another an ecclesiastic, and a third a burgher. These judges were to take cognisance of all grievances, including clerical cases in which temporal interests were involved. One or other of the judges was to conduct the case, according to the rank of the contending parties : clerical cases by the ecclesiastical judge, those of the princes by the noble, and those of the people by the burgher. No sentence, however, was to be valid unless agreed on by all three, or carried by the majority. In doubtful cases they could call in the assistance of arbitrators. The judges were to be empowered to use force in executing the sentences. All fines imposed by them were to go to the treasury of the

Empire, from which the salaries of the judges were to be paid.

With the establishment of these courts of justice the right of private warfare came to an end; for all complaints of one against another had to be brought before the tribunals of the respective districts. Whoever undertook to obtain redress by force of arms was apprehended and punished. Should the tribunal of town or village in whose district the offence was committed fail to prosecute, the property of the judges was confiscated. Any prince guilty of a breach of the peace was convicted of treason, and the confiscation of his property left to the discretion of the Emperor. If the offender was an ecclesiastic, he was deposed by a synod and deprived of his temporalities. A sealed copy of these laws, signed by all the princes, was placed in the chancery of the Empire, and a duplicate was preserved in each district.

These district courts were subject only to the Imperial Diet, which was convoked every year, for a month at a time, at a fixed period, at Frankfort-on-the-Main. 'At this assembly let the Emperor himself, whenever possible, preside in person; when he cannot, let the first electoral prince preside in his name. Let everything conducive to the nation's weal be discussed at the assembly; let whatever is capable of improvement be improved, and all lawsuits of the princes be settled by public assent.'

So Nicholas directs. Besides the electors, all the imperial judges were obliged to attend at Frankfort, and bring forward, as far as they thought essential, all the affairs of the Empire and the different provinces. In order that the burgher element should be duly

represented Nicholas also recommended that each capital city and diocese and large imperial city should send at least one member. All present were obliged to swear that they would keep in view the public good in all their deliberations and decisions. A very important proposition was that the judges should bring notes of the customs in their respective districts and submit them to the Diet, so as to bring about a general understanding, and to correct any abuses which might prevent the poor or the illiterate from having justice done them.

By the carrying out of this important scheme the want of a practical imperial supervision over the popular judicature would have been obviated, and the development of German judicial procedure into a universal German code of law would have been made possible notwithstanding the differences of races or estates. A strong point against the introduction of the Roman Code would have been made, and the popular right to take part in the universal government would have been secured to the German people.[1]

'But,' as Nicholas declared, 'even the best courts and the best laws can only be efficient when the Government is invested with sufficient power to carry out the laws and to have the decisions complied with.' To this end he recommended the formation of a standing army for the protection of the courts and the maintenance of the laws; as also to lessen the large outlays which accrued constantly to each principality, earldom, and corporation in opposing law-breakers; also to suppress insurrections and to strengthen national authority. The

[1] Although Nicholas of Cusa had thoroughly studied the Roman Code, he was in favour of the German law. See Stumpf, pp. 20–24, 57, 58.

expenses of this army were to be met by the imperial treasury and by a special tax levied by the Diet at Frankfort; a portion of this tax was to be devoted to the maintenance of the Emperor's Court.

Besides securing the public peace and repressing any arbitrary movement of the princes, this State army would enable the bishops to devote their exclusive attention to ecclesiastical matters, while their agents attended to temporalities. The authority of the Emperor would be strengthened, without which it was useless to hope for any permanent reform; the judicial and executive branches would be centralised, and a new and improved state of things would be established.

'O God!' cries Nicholas, 'if all the hearts which approve of this plan of reformation would burn with zeal, then should we see, even in our own day, the restoration of prosperity for the Empire; but while we are indifferent to those things, while we remain attached to the old order and blind to its evils, the Holy Empire will perish.'

The root idea of Nicholas of Cusa's plan of reformation was that to strengthen the central power in opposition to the overweight of territorial might, and to restore the monarchy in the old acceptation of the word, were the only means of bringing back peace and justice, and of averting the threatened danger of revolution.

In the year 1439 William Becker of Mayence wrote: 'We have a good constitution, good laws, and good traditionary customs. What we want is power to carry out those laws in the supreme and lower courts. We also want a permanent army under the guidance of leaders who, brave and zealous for right, will be ever

ready to see that the law is upheld and its sentences executed without flinching; and the robber barons rooted out of the land. Shall Germany, before whom foreign nations have hitherto trembled, Germany, which is richer in its soldiery, its gold and its provisions, than any other land, be torn to pieces by internecine dissensions? Shall the Empire through these dissensions and the weakness of its sovereign never reconquer the position she enjoyed for centuries, and which was universally acknowledged? Only when the supreme authority is strengthened, and the Emperor wears with honour the highest temporal crown, will the members of the nation revive, and the different tribes, united under one sceptre, enjoy once more permanent peace. As long as the Emperor is dependent on the caprices of the princes, and is without an army and sufficient revenue to carry out his government, neither right nor justice can prevail. Therefore I say, that to strengthen the imperial power is to strengthen the States and to work for the good of the nation. Whatever weakens the imperial authority strengthens evil.'

A well-established peace and strongly organised courts, an imperial army and imperial taxation were the watchwords of the day and the constant desire of all those who had the honour of the Emperor, the peace of the nation, and the respect of other Powers for the German Empire at heart.

At the meetings of the Diet during the reign of Frederic III. the necessity of general reform, particularly in the administration of justice, was repeatedly urged, and the discussions between the Emperor and the States were not without results. The free cities had obtained the right, though subject to certain

restrictions, to sit and vote in the national assembly. The manner of debating assumed a more precise form, and the States were divided into three separate colleges, composed of the seven electors, the sovereign princes, and the city delegates. In 1486, by the influence of the young King Maximilian, a ten years' peace was proclaimed, and, as a step towards a general peace, a bond was entered into with Suabia, on the authority of the king, in 1487. To the Suabian prelates, knights and cities, who were the first members of the league, several princes soon joined themselves; among others Duke Sigmund, whose possessions were in the Tyrol and Northern Austria, Baron Eberhard of Württemberg, and the bishop of Mayence, Berthold von Henneberg. Through fear of the superior power of this league Duke Albert of Bavaria begged to be admitted. Before many years the league fulfilled the hope which its members expressed in writing to the Pope: 'That it would be blessed in its labours, not only for Suabia, but for all Germany and for the world of commerce.'

But notwithstanding these great improvements in the country, it must be confessed that at the close of the reign of Frederic III. there was still deplorable confusion in the administration of justice; that during his lifetime the imperial power, far from being strengthened, lost much both at home and abroad, and thus, while the sovereign power decreased, that of the princes increased at the expense of the weak whom they oppressed.

Growing Power of the Princes

Those princely houses which were destined to play more or less important parts in German history date the beginning of their power from the reign of Frederic III., or from the beginning of the sixteenth century. Such were the Hohenzollerns in Brandenburg; the House of Wettin in Saxony, Thuringia and Meissen; the Landgraves of Hesse in Middle Germany; the Zähringers in Baden; the Wittelsbachers in the Palatinate and Bavaria, and the Barons, afterwards Dukes, of Würtemberg in Suabia. Some of the princely houses, such as those of Brunswick-Lüneburg, of Anhalt, of the Palatinate, and of Wittelsbach, remained split up in different branches; but from the middle of the fifteenth century most of them aimed at strengthening themselves by uniting in larger groups; for instance, the Mecklenburg possessions were all consolidated under Henry of Schwerin in 1471, the Pomeranian country under Duke Boyislas X. in 1479, and the Duchy of Baden acknowledged Margrave Christopher II. as its sovereign prince. Shortly afterwards the Hessian territories were organised into a principality under the Landgrave William II., father of Philip the Magnanimous.

In the province of the Lower Rhine an important princedom was formed out of the earldoms of Julich Cleves, Berg, the Mark and Ravensberg under the sovereignty of John III. In Bavaria all the territory, with the exception of Neuburg, belonging to the Wittelsbach family was united under the sovereignty of Albert IV.

In 1484 the Dukes Albert and Ernest divided the territory of the Wettin family, the latter taking Thuringia and the Saxon Electorate, and becoming the founder of the Ernestine branch of the family, the former retaining Meissen and the adjoining country, and becoming head of the Albertine branch. But among all the princely families the Hohenzollerns understood best the art of enriching and strengthening themselves by conquest, purchase, treaty, and alliance. At the close of the fifteenth century, by means of consolidation and inheritance, they owned half Germany.

The possessions of the princes were very materially increased in the middle of the fifteenth century by a number of ecclesiastical principalities that fell into their hands. In proportion as their political power increased the civilising influence of the Empire decreased; and different principalities by degrees developed into independent sovereignties.

The power of the territorial princes rose steadily and continuously as opposed both to the different Estates, which had before been regarded as a fundamental portion of the Empire, to the lower aristocracy, and to the towns, and also stood in the way of union among the different members of the State. In some districts the privilege of representation was entirely denied to the provincial towns; particularly in Brandenburg, where the city mayors, instead of being elected by the popular vote as formerly, became dependents of the sovereign prince.

The smaller counts and barons had difficulty in maintaining their personal independence, and the knightly order was threatened in its whole status. The old axiom that 'the knight earned his position by his

sword' had lost its significance since the introduction of firearms had placed the infantry above the cavalry. The fortifications where the knight formerly considered himself 'independent of the powers' had become useless before the might of artillery. To supply their fortresses with artillery and procure the costly arms now become necessary, required a large outlay, which was impossible to the greater number of the knights, who had become impoverished by the consolidating of properties, as also from the decrease of interest by the development of capital: not to mention their own extravagance.

'From all these causes,' writes that keen observer, Pierre Froissart, 'the power of chivalry has fallen away considerably. The knights stand in great danger of losing their freedom and becoming dependent on the sovereign princes.' 'The princely power in Germany,' he continues, 'threatens the independence of the cities, which seem to be getting more absorbed in commerce, trade, and the acquiring of wealth than in the noble ambition of upholding their position in the nation.'

Describing the position of the State government with regard to the princes, Froissart continues, in allusion to his having said that as the princes had reduced the Emperor to the condition of a mere superior director, so they themselves were dependent on the will of the States: 'But this is no longer the case. The princes meditate the entire destruction of the nobility and the cities. With this view they encourage dissensions. They count on the assistance of the doctors of the law, whom they have placed in the universities and entertain at their Courts, and who make use of all their

learning and ability to prove that the power of the princes is the only legitimate authority. These doctors and advocates are the favourites of the princes, who heap honours and emoluments upon them; but by the people they are hated and despised, because they are accused of trying to undermine all national customs and traditions. They are looked upon as greater curses than the robber-knights of old, who only carried off material property, while these are like a plague, destroying all the traditional rights of the nation.' [1]

[1] *Lettres*, pp. 14, 15.

CHAPTER II

INTRODUCTION OF A FOREIGN CODE

THE momentous influence which Justinian's work on the Roman and Byzantine Code exercised over the German-Roman nation was due to the Bologna School of Law, which inspired the gathering of students who came there from all parts of Europe with a kind of idolatrous worship for the foreign code.

The Bolognese doctors of law, the so-called Commentators [1] and their followers, viewed this Roman Code in the same light as the Italians and the younger German Humanists viewed classical literature. The latter, full of one-sided, bigoted enthusiasm for the classics, were so completely carried away with the study of the ancient Greeks and Romans, that it made them look on the classical school as the *summum bonum* of all culture, and the customs there depicted as the ideals of manly life. In like manner these Commentators were so infatuated by the beauty of the Roman Code and its searching analysis, its logical deductions and brilliant explanations, that they considered it unsurpassed.

They held that the Roman system of law was the one true and reasonable one, suited to all times and all

[1] Irnerius, founder of the School of Bologna, and his disciples gave short explanations, grammatical and judicial, of the Justinian Code: *Glossæ ad ipsam legum litteram*. Hence they received the name of Glossators.

nations; that it embodied the logical expression of legal truth arrived at by the light of reason, and on this ground was entitled to the same universality of application as the laws of mathematics and logic. It was the written embodiment of common sense and reason. In vilifying the old German law the doctors often went so far as to consider it not worth while to study it or to test its appropriateness to the existing state of society.[1]

Nevertheless, in the most important respects the Roman Code was in direct opposition to the Christian standpoint of the German people.[2] While, according to them, all law ought to be the expression of the will of God, and all social order based on the dependence of man on God, according to the Roman pagan acceptation, these matters depended on the popular will. According to this latter view law ceases to be a higher authority over men and a development of the moral law,

[1] See Schmidt, *Reception*, pp. 16–40. Writing of the Justinian Code in Italy, Muratori says: 'Appena la Romana giurisprudenza mise il piede nelle scuole, e s' impadronì di tutti i tribunali d'Italia, si spalancarano le porte a mille sofisticherie ed arti per tirare in lungo la giustizia e per difficoltare talvolta la cognizione del giusto più tosto che per ajutarla.' *Dissertazione sopra le antichità Italiane*, i. 349. See Schmidt, p. 125.

[2] Schmidt, *Principieller Unterschied*, pp. 29–80. 'According to the Justinian theory,' writes Schmidt, p. 125, 'the law is the highest power in the State, and as such resistless. There is no appeal from its decisions, and herein lies its power. The natural result of such a theory is explained by the aphorism, "Quod principi placuit, legis habet vigorem."' Jacob Grimm says (*Rechtsalterthümer*, xvi.): 'The Justinian Code is not of our nation, or of our nature, and being so opposed to our national customs cannot meet our necessities. England, Sweden, Norway, and other lands that have not accepted it unreservedly have, without any want of development or progress, preserved many of their traditionary customs. On the other hand, in countries where the Justinian Code has been adopted, national independence was sacrificed to absolutism—something entirely opposed to the German character. England, with its national law, has ever preserved its free and independent constitution.' See Schmidt, pp. 161–192; F. V. Hahn, *Die Uebereinstimmung der römischen und germanischen Rechtsprincipien*, pp. 29–50.

and becomes an entirely independent code, fashioned by men for their own personal advantage.

Before the formation of the State individuals were in a condition of natural freedom and perfect independence, owing no duties to each other ; the right of might was the only rule acknowledged. This condition, however, led to continual strife and to the constant subjection of the weak by the strong, in short to general confusion, until for the sake of self-preservation men joined together and formed the State. By the establishment of the State the earlier rule of individuals passed into the hands of the multitude. The multitude became empowered to make rules which should be binding on all the members of the State, and they exercised this power either directly by a *plebiscitum*, or indirectly through officers. These regulations are called laws, and these laws are the foundation of right and wrong.

Thus right and wrong are not, as the Christian German teaching insists, over and above law, but they are only brought into being by the introduction of law into the State.

While, according to the Christian German jurisprudence, the ruler was merely the director or assistant of right, the Roman teaching clothed him with unlimited power and supreme sovereignty. It made him the highest source of law, and gave him the power of altering it by his own arbitrary decree in general as well as in individual cases. ' Traditional rights,' which according to the German standpoint could not be violated by the ruler any more than by the subject, were not recognised by the Roman Code, which left out of account all those safeguards of traditional privileges which the German system had established.

The commentators and their followers declared the laws of the Justinian Code indisputably binding because the Roman Empire still existed, and the Roman Emperors of the German nation were the legal successors of the ancient emperors. The will of the Emperor was law.

By this doctrine the commentators won the favour of the Hohenstaufen family, who gladly accepted their decision as a justification of their absolutism. This family did all in its power to extend the Roman Code, and to establish its lasting validity as imperial law beyond doubt, by sending many of their own laws to the commentators and having them incorporated in the Roman Code.[1]

Frederic Barbarossa at once claimed for himself all the rights which the Cæsars had exercised. He not only considered himself their legitimate successor, but decided many questions of private right according to the Roman Code, much to the prejudice of national custom.[2]

Nevertheless the Emperors did not succeed in permanently supplanting the national law, or establishing an empire after the old Roman idea on German soil. It was only in certain ecclesiastical-political questions that the new code was made use of as a weapon against canon law, especially in the reign of Louis of Bavaria, who, in his contests with the Church,

[1] 'Ut aptarent eas singulis legibus sub congruentibus titulis.' See Franklin, *Reception*, p. 124.

[2] See Stobbe, *Rechtsquellen*, i. 616, 617. It is told of Frederic Barbarossa that while riding with the lawyers Martinus and Bulgarus, he asked, 'Utrum de jure esset dominus mundi?' Bulgarus answered negatively, 'Quantum ad proprietatem;' Martinus, on the contrary, assented, and received his horse as a present from the Emperor. 'Bulgarus autem hoc audiens dixit hæc elegantia verba: Amisi equum, quia dixi æquum, quod non fuit æquum.' See V. Savigni, iv. 65.

declared himself exalted above all law, and by means of his servile Court lawyers and old Roman laws endeavoured to prove, among other things, that the Emperor did not require the confirmation of the Pope.[1]

The actual turning-point in the history of German law began with Charles IV., who assigned to jurists of the Roman school positions in the imperial chancery, took counsel with them throughout his long reign, and allowed them a certain amount of influence in imperial affairs. He placed the doctors of the Roman law on a par with the lower nobility.[2] These lawyers now began to use all their energy in establishing the code to which they were indebted for their standing and importance, and obtaining recognition for it as the one most fit for universal application, using it also as a means for continually improving their own position. Under Sigmund many legal decisions were given according to the Roman interpretation of law.

Under Frederic III. and Maximilian I. the new school made great progress, although neither monarch had much love for the 'Romans' or for Roman lawyers. They found themselves obliged to have recourse to them because all the princes collectively, and the larger free cities, had employed them for their private court business and in their lawsuits. But, however greatly the influence of the Romanists in imperial affairs from the beginning of the fourteenth century encouraged

[1] See Stobbe, i. 619. Franklin, *Reception*, pp. 127–133. Concerning the lawyer Crassus, who was the first to introduce the Justinian Code in opposition to the Christian German law, see W. Hohoff in the *Christl. Socialen* (1876), No. 18.

[2] Stobbe, i. 633, ii. 44. The lawyers were called *milites legum* or *milites togati*. Æneas Sylvius amuses himself at the expense of this pedantic nobility in his *Hist. Frider.* p. 294.

the reception of the Roman Code, it was not until the middle of the fifteenth that it began seriously to supplant the national law. There was as yet no question of filling the courts with learned doctors. The national German law and traditional customs continued in force throughout the provinces; and as for written laws, it was only the German law-books that commanded universal respect. The expression 'Imperial written law,' which is so often met with in records of the time, was neither originally nor exclusively applied to the foreign laws, nor did it signify either a definite class of documentary authorities or the particular code which had obtained universal recognition; it only describes all those legal maxims which were either directly or indirectly referred to the supreme authority of the Emperor.

While the canon law borrowed its methods from the Roman Code, its decisions were generally founded on the national traditions, and it offered the strongest resistance to the introduction of the new school. The decrees of the Popes had been from the earliest times the original source of Christian German law, its first public official code being the collection of edicts of Gregory IX. To this papal law-book we owe the preservation, side by side with the growing recognition of Roman law, of a large number of German legal institutions and principles which, by incorporation with the papal decrees, obtained permanent legal form.

The Church, moreover, no less than the commentators, recognised a universal, unalterable code of law applicable to all nations at all times; not the Roman system, however, but a code proceeding from God and revealed in the Holy Scriptures, to which the Romans,

like all others, were amenable.[1] On this ground the Church rejected the Justinian Code whenever it clashed with the Divine law, and set itself against the spread of Roman law from the moment when it began to be used to establish the heathen absolutism of the Hohenstaufen emperors, at the risk of undermining the Christian German law.[2] In 1180 Pope Alexander III. forbade the monks to study the Justinian Code. In 1219 Pope Honorius III. extended this prohibition to all priests, and in the following year he forbade laymen, under pain of excommunication, to give or listen to lectures on the Justinian Code in the University of Paris. In 1254 Innocent IV. extended this last prohibition to France, England, Scotland, Spain, and Hungary.

For a long time only the study of ecclesiastical law was authorised in the German universities. Later the study of Roman law was permitted, but only where it threw light on the canon law.

The faculties of jurisprudence, consisting chiefly of experts in canon law, were merely a complement of the theological faculty. It was not till 1490 at Freiburg, 1494 at Basle, and 1498 at Heidelberg, that any

[1] The canon law required a law to be 'secundum naturam, secundum patriæ consuetudinem, loco temporique conveniens.' See Schmidt, *Reception*, p. 110. The Popes were opposed to the introduction of the Roman Code into countries not inhabited by the Latin race, properly judging that it was not suited to the German race (Zopfl. pp. 115, 116).

[2] With regard to the attitude of the Church towards the Justinian Code, Schmidt says (pp. 107–128): 'The Church was always anxious to consider and to adopt whatever in the Justinian law promised to protect and better the people, just as she had favoured classical learning so far as it contributed to true civilisation and culture; but she could not favour the manner in which either the commentators or the Humanists perverted the acquisition of what was useful and ennobling into what was vicious and oppressive. The adoption of many points of the Justinian laws by the Germans can be traced to the influence of the clergy.'

permanent introduction of Roman law took place. In some of the universities of North Germany, on the other hand, it was introduced much earlier. About the middle of the fifteenth century it made important advances at Rostock. In 1456 there were four professors, or *Legisten*, in Greifswald. In 1471 a regular chair of Roman law was established at Lüneburg. From 1450 to 1500 the number of graduates of civil law was three times as great as in the first half of the century. The Italian universities were the most renowned as teachers of the Roman Code, and they were much frequented by German law students.

The more honourable and remunerative the position of the lawyers became, the more were they favoured by the princes and the cities, and so much the more was the study of jurisprudence pursued.

The Foreign Code in the Universities and the Courts of Justice

At the time of its introduction into the German universities the science of Roman jurisprudence had fallen into the lowest state of deterioration. Legal training had almost completely degenerated.

Professors and writers like Ulrich Krafft and Ulrich Zasius were noble exceptions. It was no longer the custom, after the manner of the commentators, to go direct to the original sources of legal science ; students were content to get their knowledge at second-hand from all the infinity of different opinions advanced by learned practitioners on the original authorities from century to century.

The Italians Bartolus and Baldus were pre-emi-

nently the great legal lights on whose teaching the modern jurisprudence was based, and whose authority was considered equal to that of original documents; and yet Zasius wrote to Bonifatius Amerbach, 'I must frankly confess that I have not much opinion of our civil law as it is taught by Bartolus and other learned Italians. Take away the errors it is full of, and very little is left.' From a simple beginning the Roman Code grew to be so complicated that even the jurists themselves found difficulty in interpreting it. It was impossible to penetrate the spirit of the law, or even to make a synopsis of the principal heads. A single point with its various interpretations required weeks and months of lectures. Some professors, after a whole year's exposition, had not got beyond five sentences of the Justinian Code.

On this subject Johann Reuchlin wrote: 'What interest, what dignity can there be in the study of a science which requires each word or letter to be explained? How can one respect a science in which everyone can find his own particular views justified, and which is only followed for the sake of the profits to be made out of it? In the estimation of all honourable men, who prize what is noble and elevated more than pecuniary gain or social standing, the science of jurisprudence has become more despicable than the meanest handicraft.'

Instead of discussing questions of practical use, the youthful intellect was befogged with subtle controversies over futile differences, and the literature of jurisprudence had degenerated to commentaries on points of minor importance. 'These commentaries,' said Zasius, 'contain more darkness than light. As all

must allow, for, in their passion for controversy, their authors aim more at pedantic display than at solid science. Their ambiguities foster the cunning of the lawyers, and as each writer concocts fresh difficulties he offers them to the lawyers to distort the law.'

While the Roman law was thus overriding everything, the development of the national code was forcibly arrested. It was not taught in any of the universities, nor was it anywhere intelligently fostered. The lawyers, educated solely in the Justinian school, declared it rude and rough, and urged that its uncouth forms should be set aside. In the year 1507 Wimpheling wrote: 'The law professors in our universities are only too willing not to recognise any law but what they find in their books. The popular and traditional law, which has existed for centuries, has no weight in their eyes. They cannot bear to see uneducated men in town and country sitting on the bench and pronouncing sentence according to the traditional customs and their ideas of justice.' In 1460 the advocate Peter von Andlau spoke with contempt for the national law as follows: 'No abuse seems to me so great as that men who cultivate the earth are allowed in this country to administer justice; precisely those whom the Roman Code declares, on account of their ignorance, perfectly incompetent.'

The princes were the most enthusiastic advocates of the foreign code, aiming, through it, at strengthening their own authority. It was they who first brought it into practical use by giving the doctors of the Justinian Code seats and votes in their court and provincial tribunals.

In the Palatinate sovereign court at Heidelberg in

1472, and in the Saxon court at Leipzig in 1483, a great part of the judges were of the Roman school. Access to courts held under men who, however intelligent and competent in law, were not trained ' doctors,' and where the procedure was entirely German, was made difficult, if not entirely forbidden to the subjects. The principle everywhere gained ground that legal and judicial affairs could not be satisfactorily settled without learned and practised persons, and that the doctors and their law books were indispensable.

In 1455, at the instance of the princes, the highest imperial court was composed partly of the doctors of the law, and in 1495 an imperial edict declared that of the sixteen judges half should be regularly qualified and instructed in the law; but the proceedings still continued to be held on the old German oral and public plan. Although written evidence was not excluded, it was still usual to carry on the case orally in presence of the parties interested, who were not forbidden to give evidence on their own behalf. Before many years, however, the skilled jurists succeeded in wresting from the unskilled nobles their preponderance in the courts. Under the pretext that the imperial chamber had not foreseen certain contingencies, the lawyers formulated for the courts a supplementary decree in 1500, repealing the old law which held that all legal proceedings must be conducted orally and in public, and that every man must be judged by his peer. The chief object in instituting the princes' court of judicature, constituted according to that of the Empire, was to substitute the Roman for the German mode of procedure, and to establish in the name of the princes an authority binding on all alike.

In all the higher law courts, where untrained practitioners of their native land sat side by side with those of the Roman school, the former soon found their position unbearable, the latter always getting the upper hand. The result was that a university course of the Roman law became necessary for anyone who aspired to the position of judge. In this way the administration of justice fell entirely into the hands of men who knew nothing of the national law, holding it too much in contempt to study it; indeed they were strongly opposed to it.

The modern judicial class was composed of men learned in legal matters, who looked down on 'an ignorant people in the minority,' and who had no respect for the popular idea of right or any sympathy with German national law, seeking their knowledge in the dead past rather than in the existing state of things.

Their learning and theories, with which the people had no sympathy, were the peculiar characteristics of the representatives of the new school. The code, originating in foreign sources and opposed to the national law, sowed seeds of discord among the different classes of the German people. Excluded from the public debates and estranged from the popular interests, they had only too much reason for losing confidence in the sanctity and impartiality of law, and for looking on the new code as a foreign inimical power placed over them.

Opposition of the People to the Foreign Code

The German people, accustomed to having justice administered briefly, orally, and openly, rebelled against a method which delivered them up into the hands of

lawyers and pettifoggers, whose interest it was to lengthen their lawsuits by interminable delays. Jurisprudence had degenerated into a vulgar, money-making trade. From year to year, in town and country, lawyers, attorneys, and procurators increased like locusts. All intelligent people raised a cry of complaint and warning; among the loudest were those honest minds skilled in the law who foresaw 'to what lengths the hatred of the people for those who were plundering them might lead.'

In 1507 Wimpheling wrote: 'All those who have the honour of the law at heart find themselves in poor company with the crowd of those who, having no knowledge of what honour is, make the study and practice of law the medium for filling their purses, who make lawsuits out of nothing, and are very blood-suckers of the people. There are professors who are not ashamed to instruct their pupils how to draw large profits from the practice of their profession.' In another place Wimpheling complains that through the connivance of the lawyers lawsuits had become numerous, expensive, and endless. Gerson relates amusingly that a French lady, visiting Orleans and seeing so many law-students, exclaimed, 'Oh, woe, woe! In our neighbourhood there is but one attorney, and he keeps the whole country in litigation. What mischief will not this horde make!' In the same indignant spirit Ulrich Zasius writes: 'The lawyers poison the laws; they mock the judges, disturb the public peace, bewilder the people, and are hated both by angels and by men.'

Sebastian Brant did not hesitate to place the advocates, as plunderers of the people, on a par with the robber-knights. 'The one steals in secret, the other openly; the one exposes his body to the storm, the

other hides behind his inkstand. The knight burns all before him ; the lawyer finds a well-to-do peasant, and with legal documents *roasts* him. . . . They corrupt the law to make a living. . . . We have known many of them who play the robber-knight, and impoverish the peasant to fill their larder. . . . What was only a mote becomes a mountain. We pay them well, and bring them from afar that they may deceive our judges with wily talk. We wait and wait to swell the account, until it is not worth the candle.'

In one of his sermons Geiler von Kaisersberg says : ' The lawyers, scribes, and the like are disturbers of the public peace ; instead of settling differences they foment them, in order to make money. They are like the balance in the scale, inclining to the heavier side, so the richest is right, and whoever gives the most money gets the most law. Their tongues are sharp knives ; they boast that there is no law in which they cannot find a flaw. As long as anything remains they prolong the suit. They are more detestable than the robber-knights, and they delight in ruining others.'

In 1513, after the introduction of the Roman Code, the author of the ' Welschgattung ' wrote : ' Everything is so commented upon that honest men feel as though they had been through a sieve. In a lawsuit, so long as a man has any money left he is so tormented that he cries to God on His throne to have mercy on him.' We find in a sermon preached in 1515 the following : ' When I warn you to beware of usurers, and of those who would plunder you, I also warn you to beware of advocates, who now prevail. For the last twenty or thirty years they have increased like poisonous weeds, and are worse than the usurers, for they take away, not

only your money, but your rights and your honour. They have substituted a foreign code for the national one, and questions that used to be settled in two or three days now take as many months and years. What a pity that the poor people cannot get justice as they did before they knew those liars and deceivers, whom no one wanted!'

In a letter to Wilibald Pirkheimer, Johann Cochläus asks, 'Why so many suits over trifles, if not to fill the pockets of the lawyers? How quickly all could be settled were it not for their subtleties! I blame no one personally, I only lament over the general evil which has come from that Thracian fellow, Justinian, whose code has been the cause of all this trouble.' Cochläus, foreseeing that the popular opposition to the foreign Code would be the cause of serious outbreaks, had so poor an opinion of the Justinian Code that he said, 'I know of no prince, aye, of no tyrant, who ever did so much harm as Justinian.'

A pamphlet which appeared in 1493 represents the lawyers as 'law-benders,' 'cut-purses,' 'blood-suckers,' and threatens them with expulsion. 'They have brought a strange law into our land. What a shame! These wise men know nothing; we will chase them from our land.'

The same pamphlet advised the people, when they saw one of these doctors of the law entering a law court, either to leave it themselves, or to expel 'the robber and vampire.' This advice was acted on at Frauenfeld, in Thurgau. The local judges expelled an advocate who based his opinion in an inheritance case on the authority of Bartolus and Baldus, with the words: 'Listen, doctor; we care not for Baldus or Bartolus;

we have our own laws and customs.' In the report of the occurrence we read : ' The good doctor of law was obliged to leave, and the judges themselves passed sentence ; they then recalled him and forced him to hear the verdict. It was contrary to the views of Bartolus and Baldus and the doctor from Constance.'

In the city tribunals, where the doctors had gained an entrance, the popular discontent was expressed in still more bitter terms. In the year 1509 a doctor of the law ' who had for a long time been practising his quibbles in the courts of Cleves, on the Lower Rhine, and treating the poor in an unchristian manner, excited the wrath of the people, so that they drove him through the public market unmercifully. He bellowed like a cow, and was expelled from the city.'

During an outbreak at Worms in the year 1513 it was decided that ' hereafter no doctor of the law shall be permitted to appear in the courts, and no case shall be decided before judge or counsel by written evidence.'

It was the representatives of the States who were foremost, as constitutional defenders of the freedom and traditional rights of the people, in opposing the doctors of the law.

The strongest and most persistent opposition came from Bavaria. In 1460, 1461, and 1471 the Estates there complained of the invasion of the doctors into the courts. The Bavarians demanded that ' the national law and traditions should not be interfered with, and that the courts should be presided over by reasonable, intelligent, and incorruptible native judges.'

In the year 1514 the provinces of Würtemberg likewise demanded of the Duke that the sovereign

court 'should be presided over by intelligent, incorruptible persons, chosen from the nobles and citizens who were not *doctors*; that their old customs should continue to be respected, and that the poor be not oppressed.' The Duke was also begged to consider the complaints against the 'doctors,' who had taken possession of all the courts, and who so managed matters that 'lawsuits which ten or twelve years past could have been arranged for ten shillings, now cost ten florins. If steps were not soon taken, each village would have one or two doctors to settle every trifle. As, through the fault of the doctors, many abuses have crept in, and many of the national customs have been lost, it is necessary that a law should be made and carried out that in future the cities and villages shall not be deprived of their customs, rights, and tribunals, and that the doctors shall not interfere, and matters shall be as they always have been.'

In many places even the habit of consulting with the doctors of law was opposed because, as the Franconian nobles declared in 1503, 'they try to destroy the national customs and rights.' In agreements and arbitrations dating from 1457, 1495, and 1498, we find the condition stipulated that for the future settlement of wrongs 'no doctor or licentiate be employed, for they discover wrongs where none exist.'

Wimpheling writes: 'Who will not rejoice at seeing noble, burgher, and peasant true to ancient customs and rights, manfully resisting those who try through deceit and captious reasoning to rob them of these honoured treasures, and to plunder them of all their goods? It is a struggle for what is dearest to the people, but I fear that, as the Emperor seems to have

lost the power to control and direct, the battle will be won by the princes and the doctors, who are their tools.'

'The Roman lawyers are overwhelming us; they gain an entrance everywhere, and make themselves felt in ecclesiastical as well as secular matters. Their influence is all the more dangerous because, covetous themselves, they encourage greed in the merchants. They also minister to the interests of the princes by curtailing the freedom of the people and proposing the levying of new taxes. Their influence over the princes is still worse in secret than in open court, for by their advice they undermine the wisdom of the forefathers, and change what we have heretofore held as equitable.'

The Representatives of the Foreign Code as State Officials

Long even before the introduction of the Roman Code and the lawyers trained to practice it had caused such unhappy changes and confusion in the administration of justice in Germany, these same lawyers had succeeded in bringing about revolutionary changes in the government of nearly all the German territories.

In the early part of the fifteenth century the ecclesiastical and secular princes began to place the jurists in high positions which had hitherto been filled by the clergy: they were made notaries, private secretaries, counsellors, and ambassadors of the princes, and so forth. By being appointed as chancellors of the exchequer they gained the most influential positions in the province. It was not long before the bureaux were provided with rules borrowed from the Roman Code.

Before this, in accordance with the national law, each family, corporation, and district had been governed by its own established authorities. Only in extreme cases was there need of an appeal to the sovereign princes. Instead of this self-government a bureaucratic power mixed itself up in the affairs of all, and did everything it could to undermine the authority of corporations and districts.

'According to the abominable axioms of the Roman jurists,' writes Wimpheling, 'the prince must be everything in the land; the people nothing. The people are good only to obey, to serve, and to pay taxes; they must obey not only the prince, but all his agents, who begin to play the *rôle* of the lords of the soil so well that they will hardly allow the princes themselves to reign.' By means of complicating matters, by interminable formalities, and tiresome trifles, the jurists succeeded in disgusting the princes with taking an active part in the government, which thus, by degrees, came more and more under their influence. In the sixteenth century this became seriously felt by all.

The levying of new taxes was so connected in the minds of the people with the Roman jurists that Trithemius quotes as a stock saying: 'This doctor has not graduated, for he has not yet levied a tax.' Wimpheling, in his 'Apologia für das christliche Gemeinwesen,' says: 'The jurists at the sovereign courts suck the blood of the people by the new taxes, which they justify with such fine words as "We must restrain the too forward peasantry and moderate the revenues of the monks and clergy, lest they grow to monstrous weeds." . . . In counsel they flatter the princes, who give them their bread. If the alms for the poor grow

less, and the weak are oppressed, and the pride and tyranny of the princes increase, the fault lies at the door of their greed and avarice.'

'Wolves and foxes,' complains Butzbach, 'reign in the councils of the princes. Upstarts without justice or religion, they waste the land and lead luxurious lives with their favourites. Both the sovereign and the petty princes multiply taxes on the people: everything that ministers to their pleasure seems to them legitimate; and the flatterers by whom they are surrounded encourage them in their evil deeds.'

It was not without reason that the States of Würtemberg protested against the taxes for the ducal household which had been introduced by the new counsellors. The States attributed the peasant insurrection known under the title of 'The Poor Conrads' to these innovations. The introduction of the Roman Code and the influence of its jurists over the princes were very injurious to the peasants.[1]

Notwithstanding the evils of private warfare, the peasants enjoyed protection of their rights under the Christian German law, and led happy lives. They lived under the regulations of their corporations, paid moderate taxes and services, and settled their grievances according to their traditionary customs in their own tribunals. Just as the States representatives had a voice in the Imperial Government, the district representatives in the territorial management, so the peasants on an estate had regular meetings to settle matters in the interest of the property. The fully accredited members at those meetings were, so to speak, the manor-

[1] See our remarks in vol. iv. (Trans.), pp. 127–142.

government. The taxes, which were moderate, were generally ground rents or charges of fiefdom.

The introduction of the Roman Code entirely changed this state of things, and the exclusion of the peasants from the tribunals resulted in the ancient legal customs being entirely set aside. The old customs and unwritten law lost their force, nothing being held as valid that could not be sustained by documentary evidence. The being deprived of the protecting right to be tried by their peers was a serious loss to the tenants and free-holders.

The new code was in no way applicable to the peasant conditions which had gradually developed in Germany.[1] Under the Cæsars there were no free peasants, no life-tenants, or tenants in the German acceptation of the word; therefore the Roman Code did not meet the necessities of such a social condition. The Roman Empire recognised only autocrats and slaves; so the new jurists, who judged everything according to the Justinian Code, destroyed with merciless hand all that was so dearly connected with German traditions, and built up the new code on the ruins of the ancient order. They looked on all German leases as limited, and applied the Roman slave law to the German manor rights. They invested avaricious and ambitious princes and landlords with legal authority not only to deprive the peasants of their communal rights, but to evict them from their life-lease possessions and to increase their taxes.

[1] 'The legal niceties of the doctors,' says Jarcke in his *Studien und Skizzen zur Gesch. der Reformation* (Schaffhausen, 1846), 'did not seem to teach them anything of the privileges of the German peasants.' See also Fronhofe, iv. 323.

It was in consequence of these counsels that the Count Palatine Frederic I., who had been the first to establish the doctors of the new code in the courts, claimed a sovereign right over the commons and forests. The inhabitants of the communal villages began to feel that what had been their right was now allowed only on sufferance. The forest rights were retrenched so as to increase the hunting preserves for the nobility, and punishment for infringement of the game laws was very severe: for example, in 1517 Duke Ulrich of Würtemberg, 'who did nothing without the advice of the detestable doctors of law,' decreed that 'Whoever within the game preserves, whether in wood or field, shall be found off the marked paths carrying a rifle, a crossbow, or any other arm, or walking in a manner to excite suspicion, shall be deprived of both eyes.'

The rights of the chase were not only declared to be royal prerogatives, but the tenants were obliged to contribute to its maintenance, either by personal services or by furnishing waggons and horses. The nobility were exceedingly arrogant in enforcing these rights.

Geiler von Kaisersberg said: 'The new game laws are hard for the peasants, but favourable to the tyrants and oppressors of the poor, who assume to themselves privileges which do not belong to them—for instance, forbidding a man to retain the game which he catches on his own land. He who forbids his subjects or tenants to drive away, or if necessary to kill, game which is injurious to their farms owes them compensation. The game belongs to the person who kills it on his own premises. No prescribed law is higher than the natural

law, and the rulers who impose unjust laws are guilty of grievous sin.'

The theologians Gabriel Biel and John Trithemius addressed similar words to those who robbed their subjects of their traditional rights and burdened the poor with taxes or services, 'treating them as if they were created for nothing but to minister to those in power.'

'It is but too true,' said Trithemius, 'that in olden times slavery prevailed and kept the larger part of humanity in almost bestial subjugation. It was long before the light of Christianity penetrated the heathen darkness of pagan impiety and tyranny; but what shall we say of these Christians, who, by the introduction of heathenish laws, revive slavery, and flatter the great ones of the earth by persuading them that might gives them the right to oppress their subjects and deprive them of their freedom? Execrable law! It has already been the cause of several outbreaks, and unless the law protecting the freedom of the people and the rights of the labouring classes be restored, it is to be feared that we shall have disastrous wars in the near future.'

The introduction of the Roman Code created unspeakable confusion in all grades of society. Exactly in proportion as it grew and prevailed did national rights and national freedom go to the wall. As in ancient Rome, the law became the means by which the State arrogated to itself supreme power, ignoring all obstacles.

The lawyers of the Roman school were systematically opposed not only to the generally received traditional German laws, but also to the written bylaws of separate districts and corporations. They were

determined mercilessly to sacrifice the established national customs to the subjugating Roman Code.

Because the Roman Code made no provision for the rights of different social classes, its practitioners held that the territorial representation in the Imperial Government was unnecessary, and treated the existing constitution of the land as arrogantly as they did private rights. All State representatives were treated as mere subjects of the sovereign princes. The rights and privileges of centuries were looked upon as nominal and revocable, and the legality of every corporate union was made dependent on the sanction of sovereign power.

A German sovereign was to be a *princeps* in the ancient Roman sense of the word. The rights of legislation and administration—judiciary, military, financial, police, commercial, mining, and gradually even private financial matters—came to be considered dependent on the judgment of the sovereign.

But in order that the sovereign might be as all-powerful as an ancient Roman *princeps* it was necessary that the ecclesiastical management should also be subject to him; and, indeed, long before the outbreak of the Church schism many jurists had maintained that the prince was entitled to religious supremacy, and that, 'after the manner of the old Roman emperors, he should assign to religious matters their forms and their limits, appoint and depose bishops, and dispose of Church benefices for the good of the nation.' Pierre Froissart informs us that in 1494 'the learned jurists had taught this doctrine to Charles the Bold, Duke of Burgundy, who was not averse to be both pope and emperor.' 'I was told that he often advanced this

doctrine while acting most arbitrarily towards bishops and monasteries, and using their property as if it belonged to him.'[1] The jurists cherished a particular hatred for ecclesiastical property rights, because they considered, with justice, that they were the strongest bulwark of the old German property rights. The Holy See called them 'A hard and oppressive yoke to the princes.' The expression, 'I would be pope in my own country,' is attributed to Charles the Bold, as also to other princes, among them certain dukes of Saxony and of Cleves, who were known to harbour the same sentiments in the fifteenth century.

The authorities in the Justinian Code tried to free their princely protectors from the imperial as well as from the papal jurisdiction. In the year 1471 the Italian Augustin Patricius wrote: 'The learned, astute, and intelligent princely advisers interpret everything as they will. They pride themselves on being called into the sovereign counsels, and having their advice listened to as if they were oracles. The changes of the times please them. They grow strong on the dissensions of the princes, and by subtlety always make it appear that they increase the prerogative of their masters.'

This prerogative seemed to consist mainly in avoiding the support of the Emperor and the Empire.

'The Empire and its honour,' complains Wimpheling, 'seem to have no existence for those counsellors when there is a question of money or troops.' They brought their astuteness to bear on the political questions confided to them by the princes, pluming themselves on their cleverness when they brought the levies

[1] *Lettres*, p. 19.

for the maintenance of the Empire to the lowest minimum ; utterly regardless of the fact that the well-being of whole territories, possibly even the very existence of the nation, might be at stake while they were bargaining over a paltry florin. While clothing the princes with all the might of the Roman *princeps*, they had no intention of conceding more than a limited prerogative to the Emperor. All their efforts seemed directed to making the princely oligarchy the foundation-stone of the constitution.

CHAPTER III

FOREIGN POLICY AND EFFORTS FOR UNION UNDER MAXIMILIAN I

The Holy Roman Empire, in its earliest constitution, was undoubtedly the first legislative power in Europe.

Germany stood at the head of Christendom.

The tasks which this nation, as representative of the supreme imperial power, had to undertake outside her own limits served to unite and consolidate the various tribes within her dominions. The result of her prosperous Roman expedition was to encourage a spirit of colonisation, which continued for a century after the decline of the imperial power. By the side of the old Western Germany and the old nationalities, which formed originally the kernel of the Empire, there grew up by degrees the sister land of Eastern Germany; the inhabitants of Silesia, Meissen, Brandenburg, Mecklenburg, and Pomerania developed gradually into new German tribes.

As from the outset the Empire was largely suffused with Latin elements, so the extension of its eastern boundaries brought it into contact with the Slavonic races. Being composed of so many different tribes, resembling, so to say, a nation of nations, it was particularly adapted for union with other races, and it wielded its supremacy with such wise moderation that it never curtailed the independence of its Roman subjects. So

little did the thirst for conquest enter into the spirit of the nation that the vast French territory on its border, extending from the Scheldt to the Rhone, remained intact.

The Holy Roman Empire, by uniting Germany, Italy, and Burgundy in one, became the great peace-preserving Power in the interior of Europe. As long as the inviolability of its frontiers remained respected it was such a bulwark of peace to the rest of Europe that a universal war was an impossibility.

With the decline of the Empire this state of things changed. In proportion as Germany abandoned its cosmopolitan mission, its internal politics became disturbed, and the unity which bound its various tribes was relaxed. In the towns, as well as in the sovereign principalities, a spirit of independence was developed. Through its commercial cities and routes Germany had made most of Europe contribute to its prosperity, and during the reigns of Rudolph of Hapsburg and Maximilian I. intellectual culture attained a wonderful development; but, in the meantime, narrowness and selfishness came to prevail in political matters, and the nation grew indifferent to all the general interests which would have been a bond of union between the different tribes, by calling forth their united forces. Germany not only lost its European supremacy, but became a stranger to all the great questions of European politics.

It was during the reign of Frederic III. that the nation suffered the heaviest losses. In the north, Schleswick-Holstein, although under German dominion since 1460, fell to the crown of Denmark. In Prussia, 'to the humiliation and prejudice of the nation,' the

Teutonic Knights were obliged by 'the Peace of Thorn' (1466) to cede most of their dominions to the King of Poland, and to become vassals of his, Emperor and Empire remaining indifferent to the humiliation of the Order.

Still worse was the sundering of Bohemia from the fate and interests of the Empire. With the Bohemian Crown the House of Hapsburg lost its strongest position in the east and west, and it was weakened still more by the fact that the retention of Hungary depended on Bohemia. But worst of all was the increasing power of the French and the aggressions of the Turks.

The ambition of the French kings for conquest was held in check as long as the Empire remained united, and retained Lorraine and Burgundy within its boundaries. But as soon as the dismemberment began these latter provinces became the coveted prize of France. The unjust occupation of Lyons in the year 1312 was as disastrous to the Empire as the taking of Strasburg in later years was important to the Prussian kingdom. The continual aspirations of France are clearly shown by a document of the year 1333, in which Henry, Duke of Lower Bavaria, a traitor to the Empire, hoping to obtain the French throne through the assistance of France, proposes to Philip of Valois to aid him in conquering the episcopal See of Cambrai, and the portion of the Roman Empire extending from the Rhone and the Saône to the boundaries of Lombardy and German Switzerland. With a view to weakening the Empire Louis of Bavaria, by his French policy, for years encouraged the dissensions between the Emperor and the Papacy, and prevented a reconciliation of the Emperor with the Church. In the fifteenth century

France favoured the Reformation with the same view, and tried by continual collusion with the German princes to get possession of German provinces.[1] In the year 1444 Charles VII. and the Dauphin Louis openly declared their intention to conquer 'the natural boundaries of France,' by which they meant the lands by rights belonging to them as far as the Rhine, Alsatia, Metz, Toul, and Verdun, and to annex Freiburg to Breisach. Charles VII. said he 'would fight for German freedom and the German nobility against the power of Austria, which must be reduced. France must possess all the territory as far as the Rhine.' He said he 'did not fear the princes, whom he could overcome one after another, but he did fear the free cities and the peasants.' It was, indeed, the peasants and the burghers who frustrated French aggressions on the Rhine.

In 1464 Charles's successor, Louis XI., told the citizens of Metz that they owed him homage; that the city was his by inheritance, and that he would go to Rome to be declared king. The possession of Metz and Strasburg would give France a 'free passage to the Holy Roman Empire and the German nation,' and on this account these towns—Germany's strongest bulwarks on the west—were always in danger.

While the German Empire under Frederic III. was steadily decreasing, the French kingdom under Louis XI., the true founder of the French policy of conquest, was becoming more powerful. Already a

[1] In 1406 Louis of Bavaria pledged his possessions on the Danube to the French Crown for 75,000 florins. Droysen, *Gesch. der preussischen Politik*, i. 251. In 1378 the Archbishop Frederic III. of Cologne was a vassal of France (Lacomblet, *Urkundenbuch für den Niederrhein*, p. 3).

condition of things had set in which an ambassador from Venice described in these words: 'In France everything depends on the pleasure of the King, even in judicial matters, and no one, no matter what his convictions, would dare to say otherwise. The French have such respect for their King that they are willing to sacrifice not only their property, but their souls and their honour for him. No land is so loyal as France, and its unity and loyalty are the sources of the respect it inspires.' Even the arbitrary levying of taxes was obeyed, the French looking on opposition to the King's edict as a sacrilege. The French King was called the Ruler of Beasts, because he had reduced his subjects to such abject subjection. Under Louis XI. the taxes were raised from two to nearly five million pounds, through which means France was furnished with a standing army. In 1474 Louis XI. made a contract with Switzerland by which, for a stated sum, he could always depend on a certain supply of auxiliary troops. This was an incalculable benefit, for the Swiss troops were the best-drilled infantry in Europe, and entirely indifferent as to whom they fought under. 'It is a sad sight,' said Trithemius, 'to see the German-Swiss lose all love of the Fatherland so completely that for French gold they will fire upon their countrymen.' Wimpheling writes in the same strain: 'It is sad to have to reproach the inhabitants of the Alps that they have been induced by foreign gold to draw the sword against their neighbours and the Roman Empire.'

After the death of Charles the Bold (1477) Louis took possession of the dukedom of Burgundy and Picardy. France would have become mistress of all the Burgundian inheritance had not Maximilian of Austria,

as husband of the young Princess Mary of Burgundy, protected the German Netherlands, thus putting a serious obstacle to the ambition of France, which, once in possession of the Netherlands, would have been a constant danger to the independence of Germany. Louis was more fortunate in the south. He annexed Provence to his dominions without the Emperor's attempting to defend it, and thus became master of all the southern coast. Louis's son, Charles VIII., by his marriage with Anne of Brittany, became possessed of the last great fief belonging to the crown.

Pierre Froissart writes: 'With us each king in receiving the inheritance of his fathers promises not only to defend the Throne, but to strengthen it and increase its possessions. What rich lands lie in Germany and Italy!'

The French sovereigns considered the proposal of further conquest and the mixing in foreign strifes 'an excellent means of occupying the restless spirits of the kingdom.' Froissart goes on to say: 'In order to be in favour with the King everyone must believe that no people on the face of the earth can compete with the French, and that the entire East and West are not too large for such a nation.'

It had early been prophesied of Charles VIII. by some complacent astrologers that he would reign over the East and the West, and the people generally shared in the King's belief in this prophecy. A short time before setting out for Italy with the view of conquering the kingdom of Naples he appeared at a feast clad in imperial robes, and, holding the globe and sceptre in his hand, allowed himself to be greeted by the nobility as 'Emperor.' Not without reason did one of the Popes

in the fourteenth century warn the King of Rome to beware of the French encroachments in Italy: 'The French meditate the overthrow of the Imperial and Papal power; they would subject the entire world to their laws had they the power to gratify such an ambition.'

The old alliance of Germany with Italy had been, notwithstanding the sacrifices it necessitated on the part of each, very advantageous to both nations. The united expeditions across the Alps had strengthened in the German tribes the sense of their national dependence on each other, and constant contact with the Italians, who then led the world's culture, had the most beneficial influence on intellectual progress in Germany. The Italians, on their side, no doubt often felt the imposition of a foreign rule and the pressure of its taxes, but they found themselves thereby protected from the tyranny of the native power, which threatened the privileges of their cities, the most precious of Italian rights.

The power and progress of Middle Europe depended on the alliance of Germany and Italy. When the connection between these two countries was severed, the period of unity and strength for the Empire, of internal freedom and civic welfare for Italy, was at an end. Italy fell into a state of almost hopeless disturbance—so much so that for a time it seemed doubtful whether the Pope could remain in Rome; this state of affairs led to a lengthened dependence of the Papacy on French politics.

Maximilian was justified in saying, 'For centuries Italy has experienced what it is to have unruly passions unrestrained by an imperial hand, and all friends of

the people have longed for the return of the Emperor, acknowledging what a blessing he was. Dante, the enthusiastic admirer of the imperial power, places King Rudolph of Hapsburg in purgatory for not having done his duty to Italy, and threatens Albert with the vengeance of Heaven for not trying to bridle with a stronger hand the Italian charger (symbolic of the human will) grown fractious.' He welcomes Henry VII. as the long-looked-for deliverer. We find the same spirit expressed in Petrarch's letters to Charles IV. : ' Hasten hither as befits an emperor. Italy is thy oldest and greatest empire, her freedom thy noblest mission. Show thyself to Italy as her liberator.'

But no liberator came. Italy was almost entirely estranged from the Empire. A spirit of egotism, craft, and greed ruled among its contending States, and corruption increased daily among the higher classes. The long-protracted schism of the Churches had destroyed the principle of authority, more so in Italy than in the northern parts of Europe, and the head of Christianity saw the respect in which he had been held disappear.

France soon availed herself of this general political anarchy in Italy and the decline of power in Germany. Hardly had Charles VIII. become possessed of the throne of Naples when, in the year 1495, he announced his intention of placing the imperial crown on his own head. French preponderance in Italy threatened the Holy Roman Empire and the independence of Germany. The war with France was, therefore, a question of self-defence to the Germans.

Still greater dangers threatened the Empire from the East. So long as the imperial power was unshaken in the middle of Europe, and its frontiers remained in-

violable, the Christian nations could carry on together their foreign missions. In the time of the Crusaders they drove back the Mussulman, who threatened to overrun all Europe ; they planted the standard of the Cross in the middle of the Mahommedan possessions, and laid the foundations of European success in the East. Although it would be unjust to give the entire credit of the Crusades to the Empire, it must be acknowledged that had it not been for the political security which the strength of the Empire ensured they would have been impossible. The fundamental principle of the Crusades—' peace and unity among Christian people, to the end that they may join against the enemy of their common faith '—could not have been carried out had not the amalgamated strength of the Empire prevented any ambitious Powers who remained at home from invading the possessions of the absent. France was in the foremost ranks against the enemy of the faith so long as Germany was strong enough to keep her desire for conquest in check. But when, later on, the decline of the imperial power enabled the French kings to make conquests and to enlarge their territory, they were only too ready to turn the oppression of the Cross by the Crescent to the furthering of their own aims. Simultaneously with the decay of the German Empire the position of the Christians in the East grew weaker and weaker.

What the dismemberment of the Empire meant to the nations of Christendom was first fully realised in the fifteenth century, when the Turks took Constantinople in 1453, and, with the Byzantine Empire, became possessed of the strongest bulwark of Christianity. While Sultan Mahommed, as ' Ruler of two seas and two continents,' threatened European civilisation, the

Emperor, 'the natural protector of Christianity from the common enemy,' was so enfeebled that, even if he had possessed the courage of Frederic III., he could have offered no effective resistance to the strong inroads of the Turks.

With the fall of the Empire the corner-stone of civilisation was broken. The European Powers, divided in their interests, were at war with each other, and the heroic efforts of Popes Nicholas V., Calixtus III., and Pius II. to liberate Europe from the Turkish yoke were ineffectual. 'We have allowed Constantinople to be taken by the Turks,' said Pius II. 'The arms of those barbarians have penetrated to the Danube and the Save. We quarrel among ourselves while we allow the Turks to govern. For insignificant causes Christians take up arms and fight bloody battles, while there is no one to raise a hand against those blasphemers of our God, those disturbers of our Church, who wish to annihilate the very name of Christianity. People say that things cannot be changed, that we must accept the inevitable in order to have peace. . . . What peace can be expected from a Power which thirsts for our blood; which, after conquering Greece, plunged the sword into the heart of Hungary? Peace from Mahommed! Renounce the hope. Mahommed will lay down arms only as conqueror or conquered! Each conquest of his will be a stepping-stone to the next, until he has subdued every king in the Western Hemisphere, annihilated the Gospel, and imposed the law of his false Prophet on the world!'

Servia had already become a Turkish province in 1458. In 1460 the peninsula of Peloponnesus was conquered. In 1461 the Empire of Trebizond was

destroyed. In 1463 Bosnia and Slavonia submitted, and the Turks were successful against the Venetians.

Pius once more preached a crusade, and, notwithstanding his age and ailments, offered to lead it in person. 'Each year,' he said, 'the Turks capture some Christian country. It is for us to encourage the rulers to come to the assistance of our oppressed children, and to banish the enemy from the frontiers. We have appealed repeatedly; but, alas! in vain have we cried *Go!* Perhaps if we say *Come!* we shall be more fortunate. Therefore I propose to march against the Turks, in hopes of awakening the Christian princes by both word and example. When they see their father and teacher, the representative of Christ upon earth, a weak and failing old man, marching to war, perhaps they will be ashamed to remain at home. To arms!' he cried to the sovereigns, 'and since you do not wish to see us go alone, come with us! Seize sword and shield, and help us; or rather help yourselves and all Christendom.' He addressed all classes. 'Think of your neighbours, your brothers in Christ, who are either now in Turkish prisons or in daily danger of being dragged thither. If you are men, be touched by humanity. Come to the assistance of men suffering the most humiliating tortures. If you are Christians, listen to the Gospel, commanding you to love your brethren as yourselves. Think of the Christians abandoned to the fury of the Turks. Sons are torn from the arms of their fathers, children from the laps of their mothers; wives are dishonoured before the eyes of their husbands; young men are yoked to the plough like beasts of the field! Pity your brethren, or if not your brethren, pity yourselves, for a similar fate may await you. If you do not help

those who are nearer to the enemy, you, in your turn, will be abandoned. You Germans, who do not stand by the Hungarians, look not for help from France ; and you French, count not upon the Spaniards. As you measure, so will it be measured unto you. Profit by what you see. The Emperors of Constantinople and Trebizond, the Kings of Bosnia and Rascia, and others, have fallen one after another. When Mahommed has conquered, he will turn his attention to the West.'

The entire Western continent was awakened. But it was only unorganised crowds, without arms, often without means, that thronged from Germany, the Netherlands, and France. The sovereigns remained at home, busied about their own concerns and personal discussions. The whole undertaking died with the Pope who was its soul, and the Turks still remained masters of the situation.

In the year 1469 they invaded Croatia and the Austrian province of Carniola, and in 1473 Carinthia. On all sides villages were plundered and burned, the fields laid waste, and the inhabitants slain. Mutilated corpses, children pierced through the body with spears, strewed the highways, and Christian blood saturated the continent. Turkish troops sent out by the Pasha of Bosnia committed yearly plunder and devastation along the German borders as far as Salzburg. In 1478 they invaded Italy and devastated the plains along the rivers Isonzo, Tagliasmento, and Biave. Christian Powers were beginning to make alliances with the Turks and to use them against their enemies. In 1478 Ferdinand, king of Naples, invited the Turkish army to invade the Venetian territory, and two years later, in order to be revenged on Ferdinand, the Venetians furnished the

Sultan with a plan for the conquest of the kingdom of Naples. Their ships accompanied the Turkish fleet to Otranto in 1480. Of the 22,000 inhabitants of Otranto, 12,000 were massacred, and the rest dragged into slavery. The archbishop, who, with cross in hand, encouraged the people to be constant to the faith, was cut in two. 'We will enslave all Christians for the honour of our Prophet,' boasted Mahommed. He swore solemnly to bring Rome, the capital of the West, beneath his feet; but death and disunion in his family interrupted any further attempt at conquest.

'The whole of Christendom,' says a chronicler, 'would have fallen under Mahommed's power had not God come to its assistance.' Pope Sixtus VI. exhorted all Christian princes, particularly those of the Italian provinces, to peace. He set them an example by becoming reconciled with the Florentines, with whom he had been at war. His fleet helped to reconquer Otranto. His successors, Innocent VIII. and Alexander VI., however, gave little assistance against the enemy of the faith. The narrow and selfish politics, the thirst for pleasure and luxury, which prevailed throughout Italy had penetrated into the Papal Court.

During the last years of the reign of Frederic III. Italy was constantly exposed to the incursions of the Turks. Five times they entered Styria, six times Carinthia, seven times Carniola; and in 1493, in the same month in which Frederic died, they again entered Styria and Carniola, taking ten thousand into slavery.

This was the condition of Germany when Maximilian ascended the throne. Whether he looked West or East he had too much reason to fear that if the nation did not make strong efforts the Houses of Austria, Bavaria,

and their dependent vassals would be lost, and brought under the power of France or of the Sultan.

Maximilian I

Maximilian was one of the most popular of sovereigns in German history. Many of the brave deeds of this 'last of the knights' in battle or tournament, and his marvellous adventures while chasing the bear or wild boar, live even yet in the traditions of the people. Wherever he appeared he won the love and respect of all: whether it was at Worms, where, clad in the simplest armour, he overcame the redoubtable Frenchman in a duel, and then, raising his visor, discovered his noble features to the enthusiastic crowds; or at Guinegate, where, having won the laurel crown, he, with his usual generosity to friend or foe, devoted himself to dressing the wounds of the vanquished; or, finally, on that solitary path near Augsburg, where, meeting a beggar,who had been suddenly attacked with a mortal illness, he descended from his horse, gave the sick man his own flask to drink from, wrapped his own mantle round him, and rode to the next town to bring a priest to administer the last consolations of religion.

In his bedchamber at the royal castle of Innsbruck are to be found the following lines: 'I, Maximilian, king by the grace of God, wear the crown that I may protect the poor and be just to all, in order that we may all live in peace eternal!'

In outward appearance Maximilian was handsome and captivating. His fine figure, his quick, decided step, the dignity of all his movements, his expression of calm benevolence, his inexhaustible joyousness and

fascinating conversation, his conciliatory manners, all made an impression never to be forgotten. On the occasion of his going to Ghent to meet his bride, Mary of Burgundy, an eyewitness wrote as follows: 'Mounted on a large chestnut horse, clad in silver armour, his head uncovered, his flowing locks bound with a circlet of pearls and precious stones, Maximilian looks so glorious in his youth, so strong in his manliness, so beaming with happiness, that I am at a loss which to admire most—the beauty of his youth, the bravery of his manhood, the promise of his future, or the chivalry of his knighthood.'

He won all hearts wherever he might be: whether wandering over the mountains of the Tyrol, clad in his hunting-suit of simple grey, chatting in friendly manner with the peasants, or at social gatherings, either at Frankfort or Ulm, conversing affably with the burghers or the burghers' daughters; nor was he offended when the Court ladies concealed his spurs and boots in order to retard his departure, that he might open a festival with the queen of the evening.

Maximilian was filled with a strong desire to consecrate his strength to an era of new activity and usefulness. He dreamed of a progress which, while respecting, and avoiding what was evil in, the past, would adopt the improvements of intellect and science. His thirst for knowledge was unquenchable, inducing him to apply himself with the same ardour to the study of history, mathematics and languages, as to gunnery and the mechanical arts. He was considered the ablest swordsman and cleverest linguist among the princes of his time. Besides German and Flemish, he was perfectly at home in Latin, French, Spanish,

Italian, English, and the Walloon language. His fiery, enterprising mind, inherited from his mother, a Portuguese princess, was constantly active, and while yet young he was a keen observer of men, and through personal experience had learned the transitory nature of temporal things. He said once to a Duke of Saxony: 'He alone can sympathise with the wants of others who himself has suffered.' He remembered when, as a boy, during the attack of the Viennese on the royal castle, he went around among the servants begging a piece of bread. Nothing could shake his firmness, and when his projects failed he satisfied himself with the consolation that 'it might have been worse; God will help us.' The Hapsburg House was remarkable for confidence in God. 'Great peril, great honour,' seemed to be their motto.

An opponent of the House of Hapsburg said, 'Maximilian is a wise, prudent, God-fearing prince.' Machiavelli writes: 'The Emperor is a great general; he bears fatigue like the most hardened soldiers; he is brave in danger and just in government. When he grants an audience he is patient and gracious, and is a pattern of many princely virtues. His greatest faults are extravagance, irresolution, and over-confidence in mankind. His easy nature causes him to be deceived. A friend of the Emperor told me that anyone could cheat him without his knowing it.' [1]

[1] *Opere*, iv. 166 168, 174. Pope Julius II. reproaches Maximilian with extravagance. See Höfler, *Election of Charles V. to the Throne*, p. 8, note 2. For particulars of the Emperor, see Ulmann, *Maximilian*, i. pp. 196, 836. His personal friends had to admit that he was 'a poor treasurer.' He spent lavishly. In the palaces, however, he required but two rooms for his personal use; one for audience chamber and living, the other for sleeping. In the inventory taken in 1493 at the Castle of

The Florentine ambassador Francesco Vettori accused him of excessive liberality. 'For the rest,' he says, 'no one can deny that the Emperor is wise and circumspect, skilful and untiring in war, and widely experienced. He possesses the confidence of the nation more than any of his predecessors for a hundred years, but he is so amiable and kind-hearted that it makes him yielding and credulous.'

All too credulous Maximilian certainly was in believing the promises of the German princes. Johann Cochläus says: 'It was a serious fault of Maximilian that, notwithstanding the many times that he was deceived, he still confided in the promises of supplies made him by the princes, and acted prematurely. The princes, thinking only of their own interests, were generous in promises, which they forgot as soon as they retired from the Diets, or fulfilled with such dilatoriness that the help generally came too late, impeding many of the Emperor's projects, and giving friend and foe occasion to find fault. The state of the Empire cost Maximilian bitter tears, for he had the good of his people at heart.'

All writers of his time agree that he showed a true German spirit, a sacrificing care for his people, an active desire for the progress of the nation, and thorough loyalty to his motto: 'My honour is Germany's honour, and Germany's honour is mine.'

He was, no doubt, also ambitiously eager on behalf of the claim of his dynasty; but the nation, he felt,

Schneeberg we read: 'In the rooms of the most gracious lord a writing table with locks; one bed with canopy and one without; a wooden trunk; a locked closet, and a small organ.' Inventories taken in several of the royal residences show a similar absence of luxury.

would benefit by the increase of the Hapsburg power, which would form the strongest barrier against Turkish and French invasions. Aware of the interior dissensions and the exterior weakness of the Empire, Maximilian directed all his efforts to encouraging the energy of the people and exciting them to noble, patriotic ends. He hoped through warlike enterprise to awaken them to the necessity of union and loyalty. He proposed to organise a stricter observance of the laws, more in accordance with the requirements of the age; but he felt that these internal improvements should be subservient to outside matters. First of all, the authority of the Empire must be re-established; the German possessions must be protected; their influence in Italy must be restored, in order to regain the position which the Empire had once held in the world's politics.

After gaining these proposed triumphs, and becoming even more powerful than his predecessors, Maximilian hoped to re-establish peace, and then, having received the imperial crown, to direct the strong arms of the united nation against the Turk; for he accepted the Empire in the ancient spirit—as the protector of the Church and the foundation and preserver of justice on earth. To lead the arms of the Western Empire against the enemy of the faith seemed his highest and holiest duty.

These generous sentiments of the sovereign were shared by the best individuals in the nation. All friends of the Fatherland believed that the safety of the people depended on that of the Empire, that it was only the imperial power which would ensure peace and justice, but that deeds of valour abroad were necessary to the destruction of the hydra-headed oligarchy of the princes.

With warmth and eloquence the leaders of such a policy declared that the nation which had proved itself the most powerful and warlike of Christendom, the first in culture, science, and commerce, ought surely to stand in the foremost rank.

Men like Wimpheling, Brant, Nauclerus, and Pirkheimer spoke of the ancient glory of the Empire, and greeted Maximilian as the protector of German unity and the redeemer of the Christian Germanic Empire—the sovereign who would secure the triumph of the faith in the East and the West. Sebastian Brant, addressing the King, said: 'The world is placed in thy hands, O King! All the inhabitants of the earth owe thee obedience. Christianity increases under thee. Oh, strengthen the empire! Thy inborn valour shall strengthen thy will. Thy manly countenance bespeaks noble thoughts, a pure and Christian soul. Yes, I know thou wilt not disappoint the hope that the Empire has found a saviour in thee. Thou takest up the imperial arms; let imperial strength fill thy soul. May our enemies see that the Lord of Hosts has placed His sword in thy hand.'

The humiliating part which Germany played in European politics seemed all the more shameful because so many victories were won by the mercenary Swiss for foreign Powers.[1] What could not Germany have done with her own troops? She might have been irresistible. There were some who had such confidence in the patriotism of the princes that they urged them

[1] German auxiliary troops were to be found in most of the wars of the times—with Wassiliewitch against the Poles, in Sweden, in England, France, and Naples (Rande, *Gesch. der romanischen und germanischen Völker*, 2nd edit., Leipsic, i.).

to resign all their power to Maximilian. 'Since they were not willing to undertake anything themselves for the Emperor,' says Coccinius, 'they should resign their power to the Emperor. Formerly, when the revenues of the nation belonged to the emperors, they could put armies in the field. If they have let their rights pass into the hands of the princes, it does not follow that the latter should alone profit thereby. If they use them to the prejudice of the nation, they should be deprived of them. O princes! either abandon those rights to Maximilian, or say to him, "What we have is yours. Use it as you will. We acknowledge you and your successors as our legitimate sovereigns."' [1]

'If the princes of the nation,' says the author of the 'Welschgattung,' 'refuse obedience to the Emperor, schism and heresy will raise their heads and Germany will fall. We cannot hope for a cessation of internal strife until all power is concentrated in one head, who will secure the peace of the Empire at home and abroad.'

The Diet of Worms, 1495

In order to re-establish the rights of the German Empire over the Italian provinces, and to check the French influence, which had been increasing since the conquest of Naples, Maximilian convoked the Diet of Worms in the year 1495. He maintained that if the power of France in Italy were not checked the freedom of the Roman Church would be endangered, the imperial crown taken from Germany, and its power annihilated. Already the French King had manifested designs on the

[1] See Müller's *Propositionen*, i. 204, 205, 314, 315.

Duchy of Milan, a fief of Germany, and it was easy to conceive the peril of having France on the near borders of Germany. Better far to fight this dangerous enemy than wait for her to come upon us. The honour of the nation forbids that we abandon the Duke of Milan, a prince of the Empire, to the enemy. In order to avert these evils and to re-establish the standing of the Empire, Maximilian called for immediate assistance, and the assurance that it would be continued for ten or twelve years, a measure which he considered necessary for the future of the Empire.

The States, however, influenced by the Roman jurists did not care for the dignity of the Empire, and looked on the ambitious designs of the French with the same indifference with which they viewed the invasions of the Turks. Their sole fear seemed to be that they might have to obey the Emperor in the event of his obtaining an increase of power.[1] They were determined to take advantage of the necessities of the Emperor to deprive him of many of his privileges, and to found an oligarchy of the princes. They declared that they could not think of voting means to carry on a foreign war until internal reforms were organised. They recommended, as the first step to this end, that the Emperor should not only resign his supreme judicial authority to an Imperial Chamber appointed by the States, but also abandon the entire direction of the Empire to an Imperial Council consisting of seventeen members, whose president only would be appointed by the Emperor.

[1] Guicciardini, in his *Istoria d'Italia*, vii. 385, writes: 'Non essendo in tanta considerazione gl' interessi publici, che, come il più delle volte accade, non fussero superati da gl' interessi privati, perchè era desidero inveterato in tutta Germania, che la grandezza degli imperatori non fusse tale, che gl' altri fussero costretti ad obedirlo.' Jäger, p. 211.

Fourteen members were to be appointed by the electors and princes, two by the free and imperial cities. This council was to have charge of all State matters, publish all decrees, and care for the public peace ; see to the restitution of territory taken from the Empire, and defend it from foreign enemies. All the revenues, taxes, and sums voted for the necessities of the Empire were to be entrusted to this body. In extraordinary cases the council was required to obtain the assent of the Emperor and electors, but in ordinary matters they were restricted only by their oaths of office. The electors only had any right of surveillance ; one of them had to be present at the sittings of the council, and once a year they all assisted. Maximilian rightly judged that by accepting these conditions, brought forward by the Estates under the direction of Berthold von Henneberg, archbishop of Mayence, he would gradually be deprived of more and more power, until it ended in his being no more than the representative of a city. The arrogance of the princes went so far that during the Diet they would not allow the Emperor to be present, even at the most important deliberations.

Maximilian complained that at Worms, ' while the affairs of the Empire were being discussed, he was obliged to remain by the door, an indignity which had never been offered to a mayor during a city council.' He objected to the proposed Imperial Council, but favoured all the plans of reform which were submitted to him.

In the year 1491, during the lifetime of his father, he had expressed the wish at a Diet at Frankfort that the peace, until then limited to ten years, should be made permanent ; also that there should be an extension of the Suabian treaty.

In convoking the Worms Diet he promised to establish right and justice. The laws relating to justice and peace appeared to him of such importance that he devoted two entire days, from eight in the morning until eight in the evening, with the exception of an interval for his dinner, to the study thereof. He declared that the law of 'permanent peace' deprived the right of private warfare of the constitutionality which it had heretofore enjoyed, and abolished all distinction between permitted and forbidden private war, and he decreed that any such quarrel would be considered a breach of the peace. Henceforth no one, no matter what his position, had a right to make war, to rob, or to besiege. No one was to injure a city, town, castle, or farm by violence, by fire, or in any other way; and it was criminal to aid or abet persons breaking these laws. No vassal might even aid his suzerain in a breach of the peace.

The establishment of this law of peace, by which 'the last of the knights' broke with the traditions of the chivalry of the Middle Ages, was a great and happy event. The territorial security leagues ceased to be necessary. The old confederations, the Suabian League, &c., became incorporated in the constitution of the Empire.

The maintenance of the peace could only be hoped for by the institution of a well-ordered imperial court of justice, which should settle every breach of right, whether among the sovereign princes or the subjects. Maximilian decreed that it should not be dependent on the residence of the ruler, but be permanently held in Frankfort-on-the-Main; also that sixteen judges, eight of them skilled jurists and the rest belonging to the order

of knighthood, should compose the court. He reserved to himself the privilege of naming the presiding judge, whom he invested with the right of pronouncing the law of the Empire in the royal name, independent of further confirmation. This could be pronounced only during the sitting of the States' court, which took place annually.

Maximilian made all these concessions in the hope that they would induce the princes to vote him the necessary means to maintain the royal dignity of the Empire against France, and to repel the invasions of the Turks; but the whole amount granted did not exceed 250,000 florins.

This sum was to be raised by a general tax called 'the common penny,' which was levied for four years, everyone, without distinction, being subject to it. On every 1,000 florins' worth of property, movable or immovable, one florin was charged. Those who possessed less than 500 florins' worth of property were to pay the twenty-fourth part of a florin tax; but no one over fifteen years of age was free. The rich were to assess themselves, and the pastors were requested to recommend from the pulpit to give more, if possible, than the sum assessed. This tax, being looked upon in the light of an alms given in God's name for the public good, was to be collected by the pastors, and handed over by them to seven treasurers named by the Emperor and the States. It was also to furnish means for the maintenance of a standing army, which, it was hoped, would not only defend the country from foreign enemies, but help to bring about the desired internal reforms. Hence Maximilian called it 'the root and preserver of peace,' without which it would be impossible to carry out the

measures proposed at Worms. Nevertheless it was never completed.

The Franconian chivalry declared that this was an unheard-of innovation aimed at their liberty. They acknowledged their obligation to send their young men to defend the crown if it were in danger, but insisted that this should not involve the levying of a new tax. The Suabians also declared themselves free servants of the Empire, and would not consent to be considered hirelings. Some of the princes admitted that they voted for the measure only in the belief that the nobles would never ratify it.

'The knights depend on the Emperor,' said Maximilian, 'when they want to resist the princes ; but when the Empire requires anything of them they shelter themselves behind the princes, as if these were their only rulers.'

The knights defended their opposition to the tax by saying that they were not represented at the Diet when taxes were levied, and several cities made use of the same pretext. Even in the electoral dominions 'the common penny' was grudgingly paid, notwithstanding that the disbursement of it had been placed in the hands of the princes.

In a later decree of the Diet of Worms it was ordered that the taxes received by the imperial treasurers should be brought to the Diet at its annual sessions, and that this body should have the disposal of them, and also the power of declaring war or concluding peace. This was another diminution of the royal prerogatives. Maximilian ceded this point, trusting that the princes would fulfil their promises ; but in this confidence he was disappointed. When, on the 1st of February, 1496, he

sent his councillors to Frankfort, where, according to the decision at Worms, a new assembly of the Diet had been convoked for the purpose of disposing of the money that had come in, they found very few deputies or representatives there.

Pierre Froissart writes: 'When there is a question of money the princes are always ill or out of funds.' [1]

Diets of Lindau, Worms, and Freiburg, 1496, 1497, 1498; Reverses of the Empire, 1499

In a circular by which Maximilian, on May 23, 1496, called a meeting of the Diet at Lindau he enumerated again, with increased emphasis, the reasons which made strong resistance to France necessary: 'Charles VIII.,' he said, 'has already begun a campaign with the view not only of conquering Milan and Genoa, but, through the deposition of the Pope, of seizing the imperial crown, won by so much struggle and bloodshed for Germany, and of reducing all Italy to subjection.' In eloquent letters to the princes he implored their aid. To the Elector of Saxony he wrote that he 'would wager his crown that the Germans would not abandon him.' At his own expense he equipped and maintained troops to resist the French. 'Our solemn oath obliges us,' he said, 'to make sacrifices for the Holy Empire.' He begged the Elector to consider his honour more than his worldly interests, and to hasten to the relief of the German-Italian Empire. 'We must confess that our prospects are bad. At present Italy

[1] Trithemius writing on the subject of this tax says: 'I was paid yearly three florins, one for myself, one for my monks, and one for my servants, and even this pittance was discontinued after the first year.'

can be saved, but there is danger in delay. Germans! all lies in your hands. You have now, together with your Emperor, an opportunity which may not again occur for centuries.'

To the Diet assembled at Lindau Maximilian complained that he had sacrificed everything for the honour and benefit of the Empire, and that the only return he got was derision and ingratitude; but he added that while the nation refused aid he would be faithful to his oath, and not betray his God and his country. In the face of such trials he commended himself to God, Who gives grace and consolation to His own. 'God and the world will bear testimony that the Emperor was willing to sacrifice all in order to avert impending ruin; he fears neither the devil nor hell, and no danger will intimidate him.' 'Whatever misfortunes come to him personally redound to his honour as the Emperor of Rome. even should he be so poor as to have to go on foot to the Eternal City.' He was ready to perform to the letter all that he had engaged to do at Worms, and promised that the will of the Diet should be respected on condition that the tax, 'the common penny,' be paid.

He always came back to this point, that unless 'the common penny' tax were paid the honour and safety of the Empire would be lost, and resistance to the infidel be useless. Should France, through the disloyalty of the States, succeed in her Italian projects, she would be strong enough to invade and take possession of the hereditary provinces of the Emperor. Her progress, however, would not end there, but would extend to German territory, which fancies itself safe. 'Then,' he continues, 'we should be obliged to make

terms with the French King in order to preserve our inheritance and its dependencies.'

All warnings were vain. At the Diet of Lindau, Berthold von Henneberg, the only one of the princes who, according to his means, kept his promises, reproached the council with their want of patriotism and self-sacrifice. He tried to prove to them that if they remained inactive the danger would increase, and they would soon be subject to a foreign master. Ever since the times of Charles IV. and of Sigmund the sovereignty of the German Empire had been acknowledged in Italy, but this was no longer the case. 'What has the King of Bohemia, an elector of the Empire, done for it? He has actually detached Silesia and Moravia from their allegiance. Prussia and Livonia are in continual distress; but who cares? Every day something is taken from the Empire and given to this one or the other. Why are the Swiss so respected by Italy and France, by the Pope, and by other Powers? Because they are united. Germany might well follow such an example. We should remember the decisions of Worms, which were meant to save the Empire from destruction, but not merely to chatter about them, but to carry them into execution; to preserve the Imperial Chamber, and to pay the tax then levied.'

The advice and representations of the archbishop were as little heeded as the admonitions of the Emperor. He was agreed with so far that meetings of the Diet were called and good resolutions carried, but when it became a question of acting, the princes had no ears to hear. As Æneas Sylvius said, 'The only good of Diets was to breed more Diets.'

Berthold spent himself in fruitless efforts; indeed,

his whole action tended rather to evil than to good, because, instead of associating himself closely with Maximilian, and bringing his material and personal strength to his support, he worked against the consolidation of the kingdom, and aimed at concentrating the whole collective sum of inward and outward power in the hands of a princely oligarchy.

For the resuscitation of imperial honour and the general welfare of the nation nothing was to be expected from such an oligarchy. Not only did the princes refuse all assistance against the French, who were strengthening their supremacy in Italy, but they were totally indifferent to the cries for help from the Teutonic Order in Livonia. With the greatest courage and persistence, Walter von Plettenberg, Grand Master of the Order, had for ten years defended this extreme frontier against the Russian Czar Ivan, and won the last victories over the barbarians of the East. He was now nearly overcome by the Russian power ; but what cared the princes for distant Livonia, although Berthold's political insight had drawn attention to the danger that threatened Germany from Russia in the future. It was a matter of indifference to the knights that the Czar had thrown forty-nine Hanseatic merchants into foul prisons, plundering their property, even to their clothes. It was impossible for the Hanseatic League, unsustained, to maintain its position there. The princes abandoned the League, left Livonia unprotected, and flattered themselves that they had done their duty to their country by determining to take into consideration at the next Diet means of resisting the Muscovite. Livonia was lost !

At Lindau and at subsequent Diets the States had other, far weightier matters under consideration—

questions of the adulteration of wine ; new regulations about dress, extravagant wedding festivities, fools and clowns, who were forbidden to wear chains or other noble insignia because it wounded the sensitiveness of the chivalry ; and so on.

Concerning the constitution of the Diet of Worms there was a vast deal of 'talking.' The Imperial Chamber, on which the States looked as their own creation, had again fallen to the ground, because the judges failed to provide for the necessary expense. Now they decided to re-establish it—not from the State treasury, but from the Jews of Nuremberg, Ratisbon, Worms, and Frankfort. The place of assize was removed from Frankfort to Worms. The payment of the 'common penny' was recommended, and it was resolved that an examination into the matter should be made and reported at the next Diet, to be held in Worms in April 1497.

At the opening of this Diet the president of the chamber, accompanied by two assessors, appeared, and complained that their services for the first year had not been paid for, despite all the promises made, and that therefore it was useless to speak further. Unless they were properly paid they could not go to Frankfort, where they still owed their hotel bills ; neither could they remove to Worms. The representatives of Maximilian complained that of the 250,000 florins voted by the States in the year 1495, only 50,000 had been received. The Emperor wrote that all his revenue and private rents had been expended for the Empire, that he was heavily in debt, and that for want of means to defray his expenditure he could not personally attend the Diet. Berthold, the only one of the princes present,

spoke bitterly as follows: 'Oh, my dear lords! what a state of things! It is pitiable to see how little interest is felt from the highest to the lowest. For our own and for the Empire's sake we must be more active. Things have come to such a pass that we must interest ourselves in preserving the harmony of the Empire, else a stranger will appear, and cause us too late to repent of our indifference. I am disgusted with our long deliberations and sage conclusions which lead to no results.'

This appeal bore no fruit, but the State showed some desire to do something for the honour of the Empire. They decided, although unwillingly, to give the Emperor the tax which had been voted, but not collected, in 1495 for the carrying on of the wars against France and Turkey, a tax amounting to 4,000 florins. They allowed the Emperor also to collect and keep the 'common penny' tax which had been levied in his own hereditary provinces and in the dominions of his son, Archduke Philip, and of the Dukes of Julich, Cleves, and Berg.

At the Diet held at Frankfort in the following year Maximilian besought the nobles 'to be brave.' He complained bitterly that the help promised him in 1495 had not been given, and that he was abandoned by the Germans. Persistence in such conduct would encourage those who looked covetously on the Empire. He foresaw that the promised 'common penny' tax would not be paid. For his own part, Maximilian was ready to make any sacrifice demanded by the Holy Empire, by Christianity, or by the German nation; 'but,' he said, 'I shall never again, as at Worms, allow myself to be bound hand and foot. I shall lead the Italian war, say

what you will. Rather would I break the oath which I swore at my coronation in Frankfort; for I am as much bound to Austria as to the Empire. This determination I declare, and shall abide by, even though it cost me my crown.'

The States, however, would not let themselves in for a foreign expedition, and distrusted the Emperor, who, in 1496, contrary to their wish, undertook a campaign into Italy and, without the consent of the electors, lent the imperial funds to Milan and Savoy.

Meanwhile in Italy, after Louis XII. had ascended the French throne on the death of Charles VIII. in 1498, things had grown more and more threatening for the Empire. Louis XII. had added to his title of King of France those of King of the Two Sicilies and Duke of Milan, giving it to be clearly understood that it was his intention to assert his claim not only to Naples and Anjou, but also to Lombardy, in right of his grandmother Valentia Visconti. He purposed to open his reign with the conquest of Milan. He would soon—so he gave his supporters in Italy to understand—bring that duchy under his dominion. In order to divert Maximilian's activity he incited Charles Egmont of Guelderland and the Swiss Confederacy against him, supplying them with large sums. He told the Swiss that not only his arms but his money and person were at their disposal, and, in return, he expected them to be devoted to France.

Of what avail to Maximilian against all these enemies could be the 66,000 florins which was all that the States at Freiburg had voted for him? The Swiss had sworn obedience to the Empire, and had furnished France with mercenary troops. Deputies from Lucerne

and St. Gall had attended the Diet at Worms, but the confederacy had subsequently refused to pay the tax then levied, or to submit to the decisions of the Imperial Chamber. In the conflict with them, therefore, nothing less was involved than the preservation of Switzerland within the dominion of the Empire and the carrying out of the proposed imperial reforms. The Estates were fully aware of this. At the Diet at Freiburg they had passed the resolution 'To make the powerful cities of the confederacy, who wore the imperial eagle on their armour, remain firm in their loyalty to the Empire,' but when in 1499 it actually came to war the princes acted very differently. The armies were face to face at Constance and the decisive encounter about to begin, when the princes, who commanded in person, declared that they 'were not willing to risk the honour of their arms against shepherds and peasants.' Maximilian was therefore obliged to withdraw his troops. Burning with wrath, he threw down his gauntlet, saying, 'It is hard to lead Swiss against Swiss.'

The war had an unfortunate end. 'Those who ought to have been most zealous,' wrote Wimpheling, 'quarrelled among themselves, and gave so little assistance to the Emperor that the Swiss were everywhere victorious.' Switzerland, the reconquering of which was the object of the war, was lost to the Empire. In the same year Milan, for which Maximilian had spent so much blood and money, fell into the hands of the French, and Louis XII. was installed there as lord and duke. It was under these unpropitious circumstances that Maximilian opened the Diet of Augsburg in 1500.

Augsburg Diet, 1500. State Council

In his summons to the Diet Maximilian again pleaded in eloquent terms the needs of the Empire. 'The German nation,' he said, 'is threatened with dissolution. Strangers who once upon a time quailed not a little before the might of Germany, would now find it an easy game to snatch from us what our forefathers won by deeds of prowess and by shedding of blood. The King of France, not content with the possession of Italy, is stirring up Hungary and Poland to revolt, and strives for the imperial crown. And, added to all this, we are threatened with a fresh invasion of the Turks next summer.' In the most urgent manner he impressed on the assembly the duty of recovering the imperial appanage of Milan.

But again the States, under the leadership of Berthold of Henneberg, took advantage of Maximilian's embarrassments to defy what little authority he still retained, and accomplished what they failed to do in 1495 at Worms. A government council was appointed; it was composed of twenty princes and councillors, with power to manage all the affairs of the Emperor and the nation, all internal and external matters; and to consider and decide on peace or war with foreign enemies. A 'royal governor' was to preside. In extraordinary cases the council, whose seat was at Nuremberg, could convoke the Emperor, the electors, and the ecclesiastical and secular princes. Thus was established an oligarchy with a powerless president under the name of king or emperor at its head.

By the recognition of this 'State Council' Maxi-

milian made the greatest sacrifice of his life. He consented to it under the conviction that now at least the Estates would fulfil their promises, and that in five or six months he would be enabled to put an army of thirty thousand men in the field. Every parish of four hundred inhabitants was to furnish one foot soldier, and the princes, barons, and lords were to supply the cavalry. For the raising of a new military fund the clergy were to give two and a half per cent. of their revenues, the servants the sixteenth part of their wages, and every Jew in the empire, without exception, one florin as a poll tax. The States voted 10,000 florins for the re-establishment of the Imperial Chamber, reserving the right, however, of deducting what they had already paid towards the expenses of the Empire. 'With those 10,000 florins,' wrote Jean Reysse, deputy from Frankfort, 'the Chamber can be opened next year and the debts contracted paid. The judges and jurymen cannot be expected to serve without salary.'

At one of the last sittings of the Diet, Maximilian caused it to be announced to the Estates that as 'his Majesty had devoted a large portion of his revenue to the States and received very little loyalty in return, the States should follow the royal example and make sacrifices for the Empire.' The Emperor then solemnly exhorted them to be loyal to their oaths to supply the Empire, and assured them if they did not act differently he would not wait for them to take the crown off his head, but he would himself throw it down at their feet and let them scramble for its fragments.

This address met with no better response than all his former efforts. On leaving Augsburg one of the councillors said to him: 'Your Majesty is destined to

fresh disappointments. To expect help from the German princes is like looking for grapes on thistles.'

This prophecy was but too true. Nine months passed, and no report of the promised enlistment was returned. The State Council itself, instead of making every effort to regain Milan, 'the shield of the Empire,' entered into relations with the King of France with the view of delivering the city up to him for the sum of 80,000 ducats, and they conferred a mark of distinction upon a French ambassador who had spoken insultingly of Maximilian.

At this time one of the imperial councillors wrote: 'Some of the princes of the Government are possessed of an evil spirit, and in more than one quarter matters seem ripe for the betrayal of German territory to France. The Count Palatine cannot be relied on, and if we are not well on our guard in Alsatia we shall have unexpected French guests in the land.' The Elector Palatine Philip had for a long time been in defensive and protective alliance with France. At one time he received from Charles VIII. 1,000 silver marks on condition that he 'would not support the King of the Romans against him.' He agreed with the French King to furnish him with assistance in case of need, and was promised in return from one to two thousand cavalry when he required them. Philip sent mercenaries from the Palatinate and kept up a secret correspondence with France. The fear entertained at the royal Court with respect to the Count Palatine was thus well founded.

As for Alsatia, there was a strong party there in favour of the French Rhine policy. In the year 1501 Wimpheling thought it necessary to assert that the

territory west of the Rhine had always been true German land, and had never belonged to France. 'Nevertheless,' he writes, 'France hopes to conquer these provinces, as was very apparent from the words of the Dauphin at the time of the Armagnac war; and he finds only too much encouragement in his designs from many Alsatians, who lean more to the Italians than to the Holy Empire.' 'Italian messengers are sent,' says Wimpheling, 'from us to the French King, who flatter him, and encourage him in his policy, in the hope that when he has conquered our provinces they may attain positions which they never could expect at home.'

In the truly patriotic districts there was loud indignation at the conduct of the princes.

In the year 1501, Henry Bebel of Tübingen spoke as follows at a meeting, in presence of the Emperor, at the Hofburg at Innsbruck: 'In a dream our mother Germania appeared to me and said, Go to my beloved son Maximilian, for he opens his ear to all. Tell him of my sad condition; picture to him my sorrow; remind him of my constantly flowing tears; tell him he is the only consolation of his mother. I have centred all my hopes in him since his birth; his head alone remains sound while all the members of the kingdom are ailing! Let not Maximilian lose courage; his strength will restore the weak. But the cancer is too deep seated; he must not hesitate to use the knife and the burning iron. Above all things, tell him I grieve over the leagues formed by the mighty in the land, who have forgotten their loyalty. Impress upon him that the great and powerful kingdoms of Persia, Macedonia,

Greece, and Rome fell by the egotism of individuals and its attendant dissensions.'

In communications to the State Council and to Berthold von Henneberg Maximilian expresses his despair over the pitiable condition of the nation, and he complains of the insults offered to him personally. He says: 'We have grave reason to reproach you that for many years we have, at great personal loss, attended the Diets, and seen no fruit resulting from them. At this present moment the expedition against the Turks, the fate of the Holy Empire and the imperial crown, are in danger, as you are aware. We particularly grieve that you, Berthold von Henneberg, the first prince in the nation, have conferred with the States Council and not furthered our views. You have thought only of your own interests, and have altogether ignored us.' Berthold might possibly have denied accusations against his loyalty and want of zeal, but the King had good reason to blame his politics.

Irritated by the French tendencies of the State Council, which took no steps toward carrying out the promises made at the Diet of Augsburg, and so made any opposition to France in Italy impossible, Maximilian had concluded peace with the French King on October 13, 1501, at Trient, and ceded Milan as a fief to him; laying down as conditions the inviolability of the German rights in Italy, and an assurance of help to retain the imperial crown. But in the following year events proved to him how little importance Louis XII. attached to his promises. At an assembly in Ulm in July 1502, Maximilian informed the deputies that he had obtained exact information of the designs of France. Louis was fostering disunion, revolt, and

dissatisfaction everywhere in the Empire, stirring up revolution in the Netherlands, and inciting the Swiss Confederacies to resist the Empire. He had so influenced the State Council that the Roman King had ceased to reign and was despised by all.

Louis had offered the Archbishop of Mayence 200,000 crowns to influence the State Council. His object was to create dissensions between the electors and princes, and thus obtain possession of Germany and Italy, with the imperial crown which he so coveted. With this object in view he had allied himself with the Pope, Venice, the Swiss Confederacies, and the King of Hungary. Maximilian protested that he had spent a million and a half florins from his private means for the good of the Empire ; and it was fortunate that the silver mines of the Adige still remained to him. He then swore, in the presence of the delegates, with uplifted hand, before God and the saints, that if he was again abandoned he would leave the nation and take no more interest in it. He assured them that he was about to do something unexpected by all ; but that he would do it in the spirit of a shepherd caring for his flock, and hoped to find them loyal and true. To what bold or desperate measures he alluded in this threat cannot be positively determined.

As regards the French machinations, however, to which Maximilian alluded, it is well known that in 1503 the Parisians cherished the hope that, with the assistance of a majority of the electors, ' The most Christian King ' would soon wear the imperial crown which the Hapsburgers were in danger of losing. The dissensions between Maximilian and the electors were of so threatening a character that it was to be feared that

the scenes which brought about the dethronement of Wenceslaus were about to be re-enacted. Those who remained true to the nation prayed that the wolves, 'miscalled princes,' might not be permitted to tear the Fatherland asunder.

The nation was not torn asunder! The whole structure of reform, such as the oligarchists had aimed at erecting, fell to the ground through the fault of the oligarchists themselves. The States had taken no pains for the establishment of the council, and the moneys voted for the maintenance of the Imperial Chamber were not collected. Not receiving their salaries, the judges separated. Maximilian wrote to the Council of Frankfort: 'You all know that from the beginning of our reign until now we have, at our own expense, convoked Diets and called assemblies, and in all things acted for the interest of the Empire and Christianity. We have, however, effected nothing. At Augsburg we took measures to establish peace, order, and justice in the land; we have conformed as much as possible to the decisions of the assembly there. The State Council and Imperial Chamber, to which we looked for the carrying out of those measures, have not been established. The judges and deputies have not received their salaries, and all plans have fallen to the ground. No one can hold us responsible.'

Strengthening of the Monarchy. The Diets of Cologne and Constance, 1505 and 1507

But all his reverses were incapable of robbing Maximilian of the hope of seeing the integrity of the German nation restored, and harmony once more

established. Even in the following year events happened which justified him in the expectation of seeing his hopes realised. By the death of Berthold von Henneberg, which occurred on December 21, 1504, the opposition party lost their leader, and the issue of the Bavarian Palatine war contributed to the royal prestige in Germany.

In this war it became clear that Maximilian was right in accusing the electors and princes of indifference to the interests of the nation—even to their own enactments made at the various Diets. At the council of princes held at Augsburg, Maximilian, with the consent of the Imperial Chamber, had adjudged the fiefs of the deceased Duke George of Bavaria-Landshut to the direct heirs of the Munich line, as the nearest feudal successors. The Count Palatine Ruprecht and his son the Elector Philip opposed this decision, and sought and received encouragement from several of the German princes, as well as money and men from France, Hungary, and Bavaria. Maximilian defeated the rebels at Baden, and the victory which he won near Ratisbon [1] in September 1504, over the Bohemians who came to support the Elector, has been sung in Greek and Latin verse. 'The imperial alliance,' it was commonly said, 'has become so powerful that neither the Bohemians nor the Swiss, who have done so much injury to the Empire, can withstand it, and Maximilian will soon annihilate the Turks and take Constantinople. Vincenzo Quirini reported to the Venetian Council, 'The Emperor

[1] The Emperor, always in the thick of the fight, was wounded, thrown from his horse, and would have been killed had it not been for the Duke Erich of Brunswick, who himself was wounded dangerously. Liliencron, ii. 537.

has so subdued the princes that there is not one of them who dares to oppose him in any single thing.' [1]

Such was the condition of things when, in the year 1505, Maximilian called a Diet at Cologne, fully determined to make use of his successes to revive the royal authority. As conqueror and arbitrator he confirmed his decision in the question of the Bavarian Palatine succession, proclaimed anew the public peace, and at his own expense re-established the Imperial Chamber.

He proposed forming a new Imperial Council of State; not, like the former one, to humiliate the Emperor, but one calculated to confirm the royal authority and to secure the public good. It was to be composed of a royal governor, a chancellor, and twelve councillors, elected by the Estates, and to hold its sessions in Nuremberg, but with the option of going elsewhere when the interests of the Empire required it. It was to have power to decide all questions of justice and peace; to arrange for defence against all infidels and enemies of the Empire and Christianity; but no grave matters were to be decided without being first submitted to the Emperor, who would try as much as possible to bring his views into harmony with those of the twelve councillors. When this was impracticable he was to summon the electors and princes, who, in union with his Majesty and the councillors, would come to a

[1] 'Poco a poco questo Rè de Romani havendo destrutto il Palatino et essendo morti li potenti Principi suoi contrarij et ritrovandosi multiplicati li amici suoi, posti per lui in dignità, è andato tanto crescendo, che si ha fatto quasi onnipotente tra tutti li Principi et tanto, che non se ne ritrova pur uno che ardisca contrariarlo in cosa alcuna' (Quirini's *Relatione* of the year 1506, published by Ehmel in Schmidt's *Zeitschrift für Geschichtswissenschaft*, ii. 338).

decision. The council was to have the exclusive power of sending circular letters in the name and under the seal of the Emperor. In order to strengthen the council four marshals, each having control of twenty-five cavalry soldiers, and two councillors, were appointed in the districts of the Upper and the Lower Rhine, the Danube, and the Elbe, with power to carry out its decisions and to maintain the public peace. The Emperor reserved to himself the privilege of appointing the royal captain, but under pledge not to make use of him in any important matter without the authority of the council. The moneys necessary were to be raised by the 'common penny' tax, as voted by the States.

The proposed measures were all moderate and practical, and had they been carried with the goodwill of the States they would have tended to the prosperous development of the imperial constitution. But the States were not disposed for any reforms which might narrow the limits of their power. They rejected the proposal in the following polite terms: 'His Majesty had heretofore governed with ability and justice, and would continue to do so in the future; it was not the intention of the States to limit the authority of his Majesty.' They declined to levy the tax, although they had declared at Freiburg that 'the public peace and the Imperial Chamber depended on the common penny tax.' They insisted that the people were so impoverished by war, death, sickness, and the increase in prices that they could not pay the tax. In like manner they opposed the Emperor's demand for the arming of the districts, and with great reluctance furnished four thousand men to protect Hungary. The poll tax had to

take the place of the 'common penny.' Each State was to furnish horse and foot soldiers according to its wealth and importance.

Maximilian did not succeed in his object; but at least it was a great gain that the sovereign and the States consulted together peacefully this time. Accompanied by all the princes present at the Diet of Cologne, Maximilian marched against Charles Egmont, who, supported by France, laid claim to the Duchy of Guelderland, and forced him to submission with the help of the troops accorded him. He also secured the presumptive rights of his House in Hungary, by which it was hoped that that country and Bohemia would be reunited to the Holy Empire, and form a strong bulwark against the Turks.

Day and night the Emperor meditated on the crusade against 'the enemies of Christianity'; and he did not for a moment doubt that the German nation would lead, and influence other nations to join in, the march against the infidel, taking its place as the first and noblest in the Holy Empire.

He desired, however, to undertake the crusade only as the crowned Emperor and the head of Christendom. With this object he resumed with zeal his preparations to go to Rome. He convened the Diet of Constance to consider the Roman expedition and the reconquest of the Italian provinces, which had fallen into the hands of the French.

On April 29, 1507, a few days after the opening of the Diet, Louis XII. entered Italy at the head of a powerful army, seized Genoa, and burned the royal charter under which the city, as part of the German Empire, claimed protection. Louis meditated the con-

quest of the sacerdotal States and the subjugation of the Pope as stepping-stones to the imperial crown.

In words of fiery eloquence Maximilian represented to the assembled States the loss which they had sustained, and the still greater danger which threatened them. 'The King of France,' he said, 'will rob the German nation of all imperial dignity. He does not build his hopes on his being stronger than we, but on our being, as we have long been, more interested in our own dissensions than in the honour and unity of the nation. He flatters himself that having abandoned the Duchy of Milan to him and protected the enemies of our nation, we shall allow him to tear from us the pride and treasure of Germany and present it to France. This humiliation might be borne if the French were more powerful than the Germans; for our fate would be worse than our disgrace, and we could not be accused of cowardice. But we are mightier than the enemy, and our greatest shame in our defeat will be to lose all through our own fault and indifference. Better risk all, lose all, than be for ever monuments of Germany's shame! . . . It is my intention to lead an army into Italy, to receive the imperial crown, and then, by reconquering Milan, to crush the French plots. For this I need money and men. I have confidence that if you second me we shall march through Italy as conquerors. When the inhabitants see the representatives of the German Empire they will come to our assistance, partly to gain their own freedom, partly to escape from their tyrants, and partly to ingratiate themselves with the conquerors. The King of France will also withdraw when he sees our strength, and remembers that one of his ancestors, bearing his name, was beaten by me at

Guinegate when I was still almost a boy. Since then no king has beaten us but by artifice. I appeal to that liberality and bravery which have always been Germany's leading virtues. Is not your reputation at stake if in this hour of danger you hesitate to arm? It is your own concern. As for myself, I have done all in my power by representing the nation's peril to you, and by setting you a good example of your duty. I shall not lack courage; I am accustomed to hardship and willing to meet it. In proportion as you respect your Emperor will you surround him with a powerful army in the field, and the surer will you be of having protected the Church, and secured to Germany the dignity which reflects its splendour on you.'

This time at last Maximilian's eloquence flowed into the hearts of his subjects 'like streams of molten gold.'

Eitelwolf von Stein, the representative from the Mark of Brandenburg, wrote home: 'His Majesty made a long speech before the Diet, setting forth his own and the nation's duty. I wish you had heard him. The whole assembly were so affected that with unanimous consent they voted him the needful help; never was the nation in direr necessity. The princes showed his Majesty the greatest respect and loyalty.' Vincenzo Quirini, Venetian ambassador, also reported: 'The highest were foremost in expressing their submission and generosity; everyone says, and it is very apparent, that no king was ever more respected than Maximilian.'

The States granted 9,000 infantry and 3,000 cavalry for the Italian expedition; in return for which the Emperor promised that all conquered lands should, according to their advice, be governed for the benefit of the nation, and assured them that he would pro-

vide that the conquered provinces be ruled in such a manner that the burdens would be transferred from the shoulders of the Germans to those of other nations, as was equitable, so that the Roman King-Emperor might be maintained without unduly burdening the German nation.

Even the Swiss Confederates wanted to 'become German again,' and the Emperor having promised them that they would never be summoned before any royal court, they engaged to cause the Holy Empire no trouble, and to be faithful and loyal allies. They offered to send 6,000 men, who were hired by Maximilian, and under their old white-cross banner accompanied the expedition.

It was a time of rejoicing, and Maximilian was most sanguine. He announced his speedy arrival to the Pope and the College of Cardinals, and reminded the States that on the day of his coronation he had vowed to Heaven to undertake in person an expedition against the Turks.

But these bright hopes were quickly blasted. Hearing of the warlike preparations in Germany, Louis XII., after the conquest of Genoa, made a hasty retreat over the Alps, dispersed his troops, and sent secret messengers to the States with assurances that he had never intended to undertake anything prejudicial to the Empire; that, on the contrary, its greatest enemy was Maximilian, who only aimed at dispossessing the electors in order to increase his own possessions. Louis also sent large bribes secretly.

The warlike spirit exhibited at Constance speedily cooled down. Of the 12,000 men promised to be ready for the field in October 1507, a few hundred only made

their appearance in February 1508. Of the 6,000 Swiss not one came. Maximilian found himself chiefly dependent on his hereditary lands; the brave Tyrolese alone sent him 5,000 men.

Wars in Italy

In February 1508 Maximilian marched with his small army into Italy, and, with the consent of the Papal legate, assumed the title of 'Elected Roman Emperor' at Trent. He explained, however, that no infringement on the Pope's right of coronation was intended thereby; on the contrary, he intended as soon as he had brought the Venetians to submission to continue his journey to Rome, and to let himself be crowned by his Holiness the Sovereign Pontiff.

The Venetians, reinforced by the French, guarded the mountain passes into Italy; and Maximilian, notwithstanding the smallness of his army, determined to begin the campaign against them, relying on the assistance promised by the Estates. 'The wall of difficulties which opposes us is harder than the head of the Emperor,' wrote one of his councillors, 'and yet he will run against it even without a helmet, and we have to suffer the consequences, as was apparent in the war with Venice.'

The warmest admirers of Maximilian had to acknowledge that, in his chivalric ardour, he often wanted that cool-headed foresight which would enable him justly to estimate his own resources for overcoming the difficulties he had to encounter.

The campaign against Venice was a failure. The Venetians won the provinces of Friuli and Istria, and

took possession of Trieste and other seaports. The Tyrol was in danger of falling into the hands of the enemy. At the same time Louis incited Duke Charles Egmont of Guelders to a renewed insurrection, and threatened Maximilian's hereditary dominions in Lower Burgundy. In this extremity, abandoned by the States, notwithstanding his repeated applications for help, Maximilian found himself obliged to carry out his threats of 1496. In self-defence and in the interests of the Holy Empire he sought to come to terms with the French King, and an alliance, called the League of Cambrai, was concluded between Maximilian, Louis XII., Pope Julius II., and Ferdinand of Aragon against the Venetians, who were becoming so greedy of gain and influence. According to the terms of this league the Empire and the Austrians were to try to regain the provinces and towns taken from them by Venice.

The League of Cambrai opened up the most favourable prospects of the recovery of these territories. But the States were not to be moved to any action against Venice. At the Diet of Worms in the spring of 1509 they refused positively every demand of the Emperor, saying that 'the treasury was so exhausted it was out of their power to lend further aid.' Moreover, for various reasons, they were absolved, they said, from giving assistance; among others, that the Emperor had joined the league without the consent of the States, and that what he now asked might 'only sink the Empire into deeper distress.' Although they had failed to keep their promises made at the Diets of Constance and Cologne, they now had the audacity to refer to these, adding, what was doubly wounding to the Emperor under his

Venetian disasters, that no good had come to the Empire out of these wars, but only loss and shame.

The cities especially were resolute in refusing the Emperor assistance. With the growth of the aristocracy of wealth, and the gradual increase of the power of capital, they had drifted further and further from the earlier lofty imperial policy, which had been the actual source of their strength and importance. They were now almost entirely influenced by mercenary motives, and, considering the Venetian campaign an interruption to their commercial interests, they looked upon it as a serious calamity. The cities had also a grudge against the Emperor, who, justly viewing their trade leagues as associations for the arbitrary increase of prices, to the detriment of the working classes, had opposed energetic resistance to them. In Suabia recruiting for the Venetian army was openly carried on, and the recruits marched through the Tyrol into Italy.

Maximilian had reason to complain that 'the nation nourished in her breast enemies who thought only of their own interests and cared little for the Empire.' In a written document addressed to the States he said: 'If through the subsidies voted at Constance and other Diets nothing but disaster and dishonour were accomplished, they must not hold him responsible. It was the States, with their meagre, slowly doled-out supplies, who had behaved disgracefully; not he, the Emperor, who had risked life and limb and treasure and comfort on the battlefield, while they, for the most part, had remained at home.'

Fearing that the Venetians would carry out their threat of invading Austria, Maximilian left Worms in

order to defend his hereditary possessions. He pledged all his revenue from customs, mines, and other sources in the Tyrol and the other Austrian provinces, and obtained grants from the separate Parliaments. His confederates of the League of Cambrai also furnished him considerable sums of money, so that in 1509 he was enabled to bring an army of 15,000 men together; and in June 1509, after the French had already won a brilliant victory over the Venetians at Agnadello, he placed himself at the head of the French army. At first this campaign was accompanied with great success. Roveredo and the surrounding country submitted to the Emperor; Padua and Verona hastened to throw open their gates; Venice's power on the continent was completely shattered; Friuli and Istria were occupied by the imperial army. As soon, however, as the Venetians perceived that the Emperor was not supported by the States they regained courage, and by means of gold and subtlety won back much of the lost ground, Padua included. Maximilian was not discouraged; he prepared to lay siege to Padua, but first of all held a review of his troops at Bovolenta, in September 1509.

An eyewitness of this review wrote: 'The Emperor appeared clad in his most magnificent armour. He was mounted on a splendid charger, caparisoned in black velvet, embroidered with gold, and with a richly gilt helmet and breastplate. His tabard was of gold brocade striped with blue; on his head was a French hat ornamented with white feather and golden ornaments; a page, bearing a white flag, followed him. The counts, lords, and knights, accompanied by their squires, appeared in their costliest armour, long plumes,

and gold chains. French, Burgundian, and Italian troops defiled with flying colours before Maximilian. I cannot describe the splendour of the scene. To sum up, no military can compare with the Germans. The Cardinal of Ferrara, the Count Constantine of Mantua, and others who were present, evidently enjoyed the spectacle immensely, and were full of admiration for his Imperial Majesty. The heavens above seemed to shower down blessings.' 'Our imperial lord,' continues the chronicler, 'appeared triumphant; the expression of his countenance seemed to say that if all the Venetians, or Turks, or the whole world had been there, he would have finished them off at one blow.'

This presage of victory was not realised. Maximilian ably led the attack on Padua in person, meeting the fire without flinching, and cheering on those in the trenches; but success did not reward his efforts. In October he saw the necessity of raising the siege, and, for want of money, he was obliged to dismiss most of his army. In December he retreated to the Tyrol.

Notwithstanding his bitter experience at Worms, Maximilian determined, for the sake of the Empire, once more to ask the States to help him in prosecuting the war against the Venetians. At the Diet of Augsburg in 1510 he once more enumerated his own sacrifices. He represented to them how he had conquered the Burgundians and the Netherlands; established peace in the country, and extended their possessions; he had opposed the infidel and secured hereditary rights in Hungary, for which his deceased father and so many princes had suffered. It was his hope, by reconquering the Italian territory belonging

to the Empire—from which Venice drew a yearly revenue of from 500,000 to 600,000 florins—to save the Germans so much taxation and to assess it on the Italians. In order to convince the States that he was not influenced by selfish motives, he agreed to consult with them—the electors and the princes—as to the best manner of governing those provinces with justice and equity in the interest of the Empire and Austria. In order that they should decide questions of war to the benefit of Christendom, the Empire, and the German nation, he begged the States to consider what was their duty to Christendom and the Empire. The Empire and the Emperor ought to be one and the same—all working to accomplish the same end.

This time the States voted 6,000 infantry and 1,800 cavalry, but the result was the same as before. The campaign of 1510 failed because, as Maximilian complained in his proclamation of 1511, the assistance voted at Augsburg was only partially given, and that not in time. He would have been justified, he added, in taking severe measures against them ; he had, however, in kindness and clemency, overlooked their shortcomings, and in so doing had incurred the contempt of friends and foes. What had been recovered from the Venetians was again lost ; while it had been a hard fight, at his own private expense and with the assistance of his hereditary subjects, to retain the rest. His heart was full of sorrow to see that the German nation and Roman Empire were so indifferent to the loss of that which their ancestors had won with so much courage and sacrifice, and for which he had risked life and fortune. It did not seem that the German nation, like

other nations, considered that the standing of its Emperor reflected on its own reputation.

It was not only by the States of the realm, however, that Maximilian was abandoned, but also by his allies. Through manifold political complications, often of the strangest kind, and with shifting alliances, the Italian war dragged on for many years. In the year 1513 it had become so universal that we find the Pope, the Emperor, Spain, England, and Switzerland, on the one side, ranged against France, Venice, and Scotland on the other. In 1515 the Cardinal of Sion wrote to Wolsey: 'Eight long years has Maximilian carried on the war alone, at a loss of more than 300,000 ducats, between the French and the Venetians. Abandoned by the Pope, the German States and Italy, he has pledged all he possessed—revenue, castles, and other property. His courage is invincible, his perseverance endless, and his loyalty unimpeachable.' [1]

Milan, which the Swiss had taken from Louis XII., again fell into the hands of the French by the battle of Marignano in 1515, and Francis I., conqueror of the Confederates, became possessor of all Lombardy.

Once more Maximilian made an effort to reconquer the imperial territory,[2] but the campaign of 1516 was the most unfortunate yet of the whole war; the Swiss mercenaries betrayed the Emperor, and the German troops disbanded for want of money. In the memoirs of George Kirchmair we read: 'Maximilian did not effect anything, and returned to Germany broken in spirit. In the winter his Majesty had to cross almost

[1] *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII.*, vol. ii., part 1.

[2] Francis I., with the assistance of the knights, conquered Milan and continued his war on the German Empire.

impassable mountains and roads covered with snow ; he was sorrowful in the extreme, and was obliged to leave his army behind him. Had he not been sustained by God's grace he could not have arrived in safety.' Before leaving Italy Maximilian addressed his people as follows : ' " Germans, strong and energetic ! how can I address you so as to gain your attention and win your hearts ? If I speak to you as your legitimate sovereign perhaps you will not like it ; and yet, if I am your ruler, from whom do I derive my authority ? Is it not from God ? If you will not respect me, think of the honour of Germany. Remember that you are German soldiers, not Swiss. Fear God, and fear also universal reprobation. Have you forgotten what I have so often repeated, that you are individually like my own sons to me ? Are you so unforgiving towards me because you have not been paid ? Surely it is not my fault, but that of those who shall be nameless. Can I be everywhere at the same time ? You know that I have never refused my life and fortune to Germany. You know how I have been betrayed by the Swiss, and you know what sums of money you have cost me. But you, you beloved Germans ! listen to the bravery of your own hearts. Do not be like those who fight only for gold. Acknowledge that I have been a loyal leader, and that your honour has been as dear to me as my own. I implore you to be men ! I have no gold, but I offer you my plate, my jewels, all that I have ; take it with all my heart." ' Kirchmair adds : ' Much more did the Emperor say to the same purport, and yet it had no effect. Was it not pitiable to see the Germans treat their Emperor in this ungrateful manner ? '

The only fruits which Maximilian, forsaken by the States and impoverished as he was, derived from the Italian campaign were the city of Roveredo and the surrounding territory, some districts of the Duchy of Friuli, and a war indemnity of two hundred thousand ducats. Brescia and Verona, 'the gates of Italy,' came into the possession of Venice.

'The Italian wars and the repeated efforts to regain the imperial crown for Germany having all ended so disastrously, the Emperor,' continues Kirchmair, 'was more and more discouraged.'

Proposed Turkish Campaign

Notwithstanding his innumerable disappointments, sufferings, and heavy expenditures, the spirit of Maximilian was unbroken. In spite of his sixty years he still hoped to fulfil the darling project of his youth, the union of all Christian people, under the Roman Emperor of the German nation, in one grand effort to expel the Turks.

Since the advent of the powerful and warlike Sultan Selim I. to the throne of the Ottoman Empire in 1512 the plans of Mahommed had once more revived, and Christian peoples were again threatened with persecution and total destruction. With a view to obtaining the command of the high seas, Selim ordered five hundred ships to be built. He conquered Kurdistan and Mesopotamia, annihilated the powerful empire of the Mamelukes in Egypt, Syria, and Palestine, and entered Cairo on January 31, 1517. Algiers also had fallen into Turkish hands, and many of the Italian seaports been plundered by Turkish pirates. Hungary

had more than ever to fear from Turkey. Carniola, Carinthia, Styria, and Austria were the common prey of the cruel infidel. Maximilian wrote: 'Now, if ever, a campaign against the Turks is the unmistakable duty of all Christian States.'

The expulsion of the Turks and the division of the Ottoman possessions would furnish a strong ground on which the contending national interests could sink their various differences.

In 1517 the Emperor, the French King, and the King of Spain met to decide on a just division of the Ottoman Empire. In eloquent letters Maximilian urged Pope Leo X., who had already assisted Hungary against the Turks, to join in the proposed campaign. He assured him that when he himself was almost too young to understand the art of war his heart was filled with longing to drive the common enemy of Christianity out of Europe, and now that mature years had given him experience, he still burned with the desire to free Christians from the power of the tyrant.

In March 1517 the Lateran Council assembled at Rome determined on a general crusade, during which there should be a truce of five years between all Christian Powers. The Pope brought forward a plan of campaign, in which he proposed that all the clergy should subscribe a tenth, a fourth, or a third of their incomes, according to the extent of their emoluments; the nobles a tenth, and the middle classes a twentieth of their incomes, towards raising the fund of eight thousand ducats necessary for expenses. He left it to the generosity of the princes to tax themselves. The Emperor, the French and Spanish Kings, and most of the European rulers agreed to this memorial. Maxi-

milian suggested a three years' campaign : the first year to be devoted to the conquest of the Sultan's African dominions, the second to the recovering of his European possessions, and the third to the capture of Constantinople. If these undertakings proved successful the provinces of Asia Minor would fall of themselves into the hands of the conquerors.

Encouraged and delighted by the unanimity exhibited by the Christian princes, Leo X. on March 13, 1518, formally announced the five years' truce and the crusade, and sent a consecrated badge (a helmet and a sword) to Maximilian as the legitimate leader and protector of Christianity against the common enemy of the faith. The cardinal legate, Cajetan, was commissioned to present these tokens to him at the Diet of Augsburg.

In his address to this Diet Maximilian said : ' The hopes of Christendom are centred in you. Show your loyalty, and do not give occasion to the Holy Empire, to Christendom, or to the German nation to accuse you of putting obstacles in the way of this great undertaking.' He depended confidently on the Estates, he said, to furnish all necessary supplies. On August 1, 1518, the ceremony of presenting the insignia took place. ' You alone,' said the cardinal legate in his address to Maximilian, ' bear the title of the protector and guardian of the Church. Existing circumstances require that you prove yourself worthy of it—the eyes of Christendom are directed to you. Take the sword, and draw it against the enemy of the Lord. May your hand be strengthened against the infidel ! '

The Emperor replied : ' With grateful heart I accept this armour from the hands of your Eminence. It has

always been the greatest desire of my heart to give my life for the Apostolic See and for the good of Christianity. It is true I do not possess the freshness of youth or the strength of early manhood which is required for such an undertaking; but, protected by this helmet of the Holy Ghost, and this sword of Faith, I will take my part with courage in the inevitable struggle against the enemy.'

To the Pope he wrote as follows: 'I am willing to sacrifice life and property. Old age approaches, but that will not retard my steps; and if death comes while fighting for Christ's name, I shall hope to receive life eternal.'

The cardinal legate, in a speech before an assembly of the States, dwelt eloquently upon the unavoidable necessity of the Turkish campaign. 'Religion and humanity,' he said, 'throw themselves beseechingly at the feet of the Germans. All eyes are turned towards the eagle of Maximilian. Only the Roman Empire can save the world: if you abandon the enterprise you abandon yourselves, for Germany is the first frontier between the Turk and Europe. Although Italy can be more easily reached by their ships, their army, which is their mainstay, is a greater menace to Germany, which lies at their mercy. If you fail to protect Carniola, Carinthia, and Styria, Croatia and Hungary—if you fail now to make this campaign effective—you rob Christendom of all its courage. . . . What can be done? What are the other nations likely to say if Germany, which possesses the imperial dignity and the guardianship of the Church, hesitates? God forbid that your delay should be the stumbling-block in the way of success.'

In order to muster the necessary forces for the campaign and to defray the war expenses, the cardinal legate proposed that the clergy should contribute a tenth of their income, the wealthy laity a twentieth, and those of moderate means a fiftieth, towards defraying the expenses of the war. He left it entirely to the Germans themselves to make arrangements for the collecting and prompt transmission of these taxes. He also promised that the sums collected should be returned in case the campaign was not begun at the time specified. 'The Apostolic See refused to have anything to do,' he said, 'with the military funds, and in very truth wanted none of the money voted for the purpose, whatever might be reported to the contrary.'

The Emperor and the Polish ambassadors seconded most warmly the suggestions of the cardinal legate, but the States opposed them. They urged excuses which until then were unheard of, but have often been repeated, viz. the grievances suffered by the German nation from the Holy See.

The startling news of Selim's return to Constantinople received during the sitting of the Diet, of the landing of Turkish corsairs at Gaeta, and of the advance of the Turks against Belgrade, made no impression on the German princes, who said they were only empty alarms got up to frighten them into promising money. An urgent appeal from the Emperor's hereditary dominions had as little effect.

On September 4 the deputies from Frankfort wrote: 'Carniola, Styria, Carinthia, and Austria have sent a touching appeal for help to the States, telling of the disasters which they have suffered from the Turks, who have invaded their country, burning and destroying

everything, and making all the counts tributary. The Turks are rebuilding and arming the castles and fortresses which they themselves have destroyed, and it is to be feared that if they are not subdued they will soon be in possession of Bavaria and Suabia.'

The electors, prelates, and princes expressed much sympathy with the suffering provinces, but they declined giving more substantial aid.

The only suggestion made by the States to meet the emergency was a mockery on the pressing necessity of the hour. It was proposed that for three consecutive years every communicant should contribute a florin and a half annually to the expedition; the princes explaining that they could not ensure even this until they had consulted their subjects. They referred the discussion of the expenditure of money, the appointment of generals, and other necessary measures, to the next Diet. The Frankfort deputies wrote, 'God grant some good may come of it.'

A few years later Belgrade and the island of Rhodes —the two great bulwarks of Christendom—fell into the hands of the Turks, justifying the prophecy of the Pope and the Emperor, that before ten years the infidel would be at the gates of Vienna.

The danger that was imminent was apparent to all, but each of the three Estates saw only as far as its own boundary. In the words of a contemporary, 'each would be willing to lose one eye if his neighbour lost two.'

The Last Plan of Reform proposed by the Emperor. Excitement in the Empire

The Estates showed themselves as dilatory and inactive and self-seeking in all matters of internal policy as in dealing with foreign affairs. Despite Maximilian's untiring efforts to bring about necessary reforms, Diet after Diet met and closed without accomplishing anything. At Augsburg, in 1510, the Emperor represented once more to the Estates that it was impossible for him to maintain peace and justice without their counsel, assistance, and co-operation; for the maintenance of peace and order presupposed an executive power, which had to be supported; and it was impossible for the Emperor now, as formerly, to meet the expenses from his own private means, as he had spent so much in the carrying on of the wars. Maximilian begged that the taxes voted in the Diets of 1495 and 1500, at Worms and Augsburg, should be allowed and collected; but the Estates would not listen to the proposition, declaring that innumerable objections had been made to those taxes, and that, as those objections had increased rather than decreased, there was no use in considering the question.

The Emperor then submitted the plan of a military organisation, based on the State register, to supply a permanent militia of from one to fifty thousand men, according to necessity. Every district and every individual were to be taxed according to their means. Austria and the Holy Empire were to contribute alike. So also were the other provinces belonging to his Majesty. This tax would be levied only when and as long as

necessity required. The different counts, prelates, and princes were to have control of the levy for their respective districts, so that the burden would be equally borne. Such an arrangement offered no difficulties, and the evidence that it would give to other nations of the harmony existing between sovereign and people would lessen the dangers of invasion. This body of militia was to serve, not in any personal strifes, but for the defence of the Empire against foreign enemies and for the maintenance of internal peace; for the subjugation of disturbers of order, and for the protection of the Imperial Chamber and the execution of its sentences.

Maximilian believed that the organisation of such a permanent militia, furnishing the Government with an executive power, would alone ensure the dignity of the sovereign, support the Holy Empire, and hold in awe the violators of the public peace; but the Estates would only promise to take it into consideration before the next Diet.

By the next Diet, which met first at Treves in 1512, and was transferred to Cologne, this military proposal was rejected. On the other hand, the imperial executive was consolidated by the division of the Empire into ten districts. When the Augsburg Diet met in 1500 there were already six districts—Franconia, Bavaria, Suabia, the Upper Rhine, Westphalia, and Lower Saxony.[1] The imperial hereditary domains and the electoral provinces were added, forming four fresh districts, viz. Saxony and Brandenburg, with their princely houses, the four Rhenish electorates, Austria and Burgundy; thus

[1] These six circles were called later on 'The six old circles' (*sex pristini circuli*).

making ten in all. This classification of the great German provinces was the best that could possibly have been devised.

Each district was to have a governor and council, with full power for the maintenance of good order and the execution of the decrees of the Imperial Chamber. In difficult cases, however, when the resources of the district were not sufficient the governor was empowered to appeal to the Emperor, who would convene the other Estates to consider necessary measures. The Emperor claimed a right of confirmation in the election of the governor; but this the Estates refused, together with his suggestion that in case of war a head marshal should be nominated, under his control.

Maximilian brought up again the scheme for an imperial council composed of eight councillors—four appointed by the electors, two by the other counts and princes, one by the prelates, and one by the cities. These councillors were to sit at the Imperial Court and assist the Emperor in the government, act with him in convening the Diets, enforce the obedience of the individual States, assist the princes in case of insubordination of their subjects, and, finally, help to carry on the internal administration of the government.

The establishment of this council was of the greatest importance to Maximilian in the levying of taxes, on the necessity of which he insisted strenuously. After long deliberations the Estates consented to the eight councillors. A general tax was also voted, but it was so small that, even if it had been paid, it would have helped the financial condition but little. Formerly one florin on every thousand was considered quite just, but objections were now raised to one on every ten

thousand. Formerly the nobility contributed freely; now they claimed immunity, alleging that they were put to expense by attending the Diets and collecting the taxes. The incomes of the electorates of Brandenburg and Würzburg were estimated at 40,000 florins; Magdeburg at 50,000; those of Kursachen and Treves at 60,000; of Mayence and Würtemberg at 80,000; of Bavaria at 100,000, and that of Cologne at 100,000. And yet both the ecclesiastical and secular princes complained that they were too poor to contribute anything for the support of the Empire.

'Anathema be the princes!' we read in a pamphlet of the year 1513, 'who are eaten up by avarice. They have no respect for the Empire, and will not contribute towards the maintenance of peace and order. Discontent is raising its head on all sides and disorder is growing strong; these evils will soon make themselves felt, and the prosperity of the princes, particularly the ecclesiastical ones, will be destroyed. See to it, princes and lords! But your ears are deaf while misfortune and destruction are at hand.'

The nobles also excused themselves from taxation, putting it all on their tenants and vassals. In vain did Maximilian represent that he could accomplish nothing with such paltry resources. In vain did he beg that the tax should be paid regularly until he had a fund of at least a million. The States were not to be moved, and the money was not collected. Trithemius wrote in 1513: 'It is an old habit with the Estates to grant nothing, or as little as possible, of what the Emperor asks. The consequence is that he has no power to protect the innocent or to punish wrongdoers. We have no safety.'

The insecurity of the times was exemplified by the evil deeds of Götz von Berlichingen and his robber-band at the time that the Emperor assembled the Diet at Treves to consider measures for the public peace. Götz had friends among the princes who delighted to see the people plundered and the villages burned. Franz von Sickingen and his band were still more audacious. All the efforts of the Emperor were useless, and everyone declared that might prevailed over right, and looked towards the future with well-grounded apprehension.

Götz von Berlichingen and Franz von Sickingen were representatives of the party who made use of the powerlessness of the Emperor in order to oppose all authority, first the secular, then the ecclesiastical, and who made the upsetting of all order the chief object of their lives. Both were of a wild, turbulent nature; both were swaggerers and greedy of gain. All their outrages were committed under cover of rights, which consisted in arrogant claims for themselves or their friends. Pillaging was to them a regularly systematised calling, which they pursued with unscrupulous audacity.[1] In 1512 Götz established his reputation by the so-called 'Nuremberg feud,' when, under the most futile pretexts, or, as he himself expressed it, 'because he wished to measure swords with the Nurembergers,' he began a

[1] David Strauss (ii. 73) says: 'It would be absurd to imagine that those knights drew their swords through an unselfish wish to protect the oppressed. They were not only cruel but avaricious. In their fights we are not more disgusted by the cruelty with which they murder their victims and burn and lay waste the towns, than by the coolness with which they follow their lawlessness as a profession, and claim ransom as if it were money honestly earned.' See *Memoirs of Götz von Berlichingen*, Wegele, pp. 130–156.

course of highway robbery. In May 1512 he attacked a party of Nuremberg merchants who were returning from the Leipsic fair, accompanied by the escort of the bishop of Bamberg. He robbed them, and detained them until certain sums were paid for their ransom. Götz and his wild associate Hans von Selbitz had made great preparations for this expedition. A large portion of the Franconian nobility took part in his proceedings, either personally or through their retainers, or by giving shelter to the robbers, or harbouring their prisoners.

Hans von Selbitz plundered the bishop of Bamberg and burned the village of Vilsick. The Emperor and the council proclaimed them outlaws, but, notwithstanding reiterated proclamations, Götz attacked two other parties of Nuremberg merchants. His brigandage continued for two years, until he and his protectors—among whom were the Duke of Würtemberg and the Palatine Elector—were heavily fined.

In 1515 the 'Nuremberg feud' was followed by that of the 'Mayence-Waldeck.' All residing in the vicinity of Berlichingen Castle, 'Jaxthausen,' and the Mayence district had to suffer from the 'Knight of the Iron Hand.' In his memoirs Götz wrote: 'I wished to try my luck and to take revenge, so in one night I burned the two towns of Ballenberg and Oberndorf. as well as the sheepfold at Krautheim under the castle.' Philip von Waldeck, who was a vassal of the archbishopric, and had assisted his lord, was taken prisoner, and detained until a ransom of 18,000 florins was paid.

Götz delighted in telling experiences of his brigandage. Once, as he was about to make an attack he saw a pack of wolves fall on a flock of sheep, and he considered

it a good omen. ' As we were beginning operations we saw a shepherd near by, and, as I live, five wolves fell on the sheep. I listened and looked with pleasure, and wished them luck, crying, " Luck, brothers ! " I accepted it for a good omen.' ' For nearly sixty years,' he boasts, ' I have carried on feuds and taken risks ; happiness and victory have been my lot. Sometimes great chances have been lost by the rashness of my associates in attacking and burning at inopportune moments.'

Götz's friend, Franz von Sickingen, in later years surnamed ' The German Ziska,' surpassed him in audacity, declaring his entire contempt for all laws. His father, Schweikard von Sickingen, Marshal of the Rhenish Palatinate, became possessed, partly in the service of his lord, partly through private feuds of his liege, partly through violence, and partly through inheritance, of a good deal of property, including the two castles of Ebernburg, near Kreuznach, and Landstuhl, near Kaiserlauten. One day his dagger was taken from him in Cologne because he wore it in his belt in defiance of the law against wearing arms in the city. He was so enraged that he and his companions determined to set fire to different quarters of the city. Happily the plot was discovered in time. Franz was the worthy son of such a sire. He won his first reputation as a good fighter in a private quarrel at Worms. A notary, who for some offence had been banished from the city and his property confiscated, entered the service of Sickingen, and ceded to him some claims which he held against certain citizens of Cologne. Franz demanded a settlement from the city, which refused it, but referred him to the judge. The matter was taken to the Imperial Chamber, then sitting at Worms, and

there the decision was confirmed. He was forbidden, under pain of banishment, to proceed against the city; but Sickingen flew to arms, and without any warning attacked near Oppenheim a party of citizens of Worms who were on their way to the fair of Frankfort. Among the number were an old burgomaster and several councillors. He robbed them of all they possessed, himself tortured the burgomaster, and threw the whole party into prison until they were ransomed. Then he sent a challenge to the city of Worms.

The Emperor and the Imperial Chamber proclaimed him an outlaw, but he found protection with his brother-brigands, Götz von Berlichingen, Hartmut von Cronberg, and others. With his ill-gotten money he hired a band of robbers, laid waste the environs of Worms, destroyed all the approaches to the city, stopped the water supply, and broke down the bridges. He even had the audacity to notify to the Diet that they must transfer their seat to another city, for he could not answer for their safety. At the same time his fellow-bandit, Philip Schluchterer of Erfenstein, began a series of outrages on the city of Metz, plundering waggons bearing merchandise, driving away herds of cattle, and burning villages and buildings. The sentence of outlawry was pronounced against them without avail.

In this state of affairs the Emperor summoned the States of the Upper Rhine to take measures against Sickingen and for the relief of Worms; but they declared themselves not equal to the emergency, and that the whole strength of the Empire was necessary. The Emperor then summoned a general council, but to little or no purpose, and Sickingen continued to pour all the horrors of devastation upon Worms during 1516 and

1517, robbing and murdering the inhabitants. The Emperor sent some hundreds of cavalry, and commanded Alsatia to raise troops for the relief of the afflicted city.

During these robber expeditions against Worms Sickingen was making himself a dreaded name as a leader of banditti. With about a thousand horse and a small body of men he joined the Count von Gerolsdeck in attacking the Duke Anton of Lorraine, who, however, after a short time induced him to enter his service. This campaign against a prince of the Empire confirmed his military reputation in Germany.

With the co-operation of the Count Robert von der Mark, 'The Boar of the Ardennes,' Sickingen opened a connection with France. Francis I., who had hoped to become one day Emperor of the Holy Roman Empire, took the outlawed knight into his service. In the autumn of 1516 he promised, in return for an annuity of several thousand francs, to defend the French King against anyone whomsoever. He intended, with the assistance of the German knights, to place the imperial crown on the head of Francis. 'My intention is,' he assured an agent of the King, 'to strengthen his cause among the German nobility. The King may depend on the services of the simple knights, such as I am. If he deals with the princes and the electors he is sure to be betrayed; they will take his gold and then do as they please. Before long I can give him an assurance of my power.' He did not hesitate to tell the King that he was persecuted by the Emperor merely on account of his devotion to France.

The intrigues against the Empire gained ground daily. Ulrich, 'Duke and hangman of Würtemberg,'

entered into league with Sickingen, and worked energetically in seconding the French designs. Francis I. told the ambassador from Würtemberg, Eberhard of Reischach, that he should not abandon Duke Ulrich and Sickingen in their battle with the Emperor. He should persuade the Duke of Guelderland and the Count von der Mark and other confederates to reinforce Sickingen and his band: 'so that the Emperor and the Empire will have enough on their hands.'

From this time there was no limit to Sickingen's audacity. In March 1517 he surprised a party near Mayence who were bringing seven loads of goods belonging to merchants of Augsburg, Nuremberg, Ulm, Ratisbon, Kempten, Ismy and Leutkirch, destined for the Frankfort fair. Passing through the Palatinate undisturbed, he brought his plunder to Ebernburg. In May of the same year he proceeded to Landau, driving away several herds of cattle and robbing several churches on his way, because he said that Landau had offended him, inasmuch as the assembly convened to take measures against him was sitting there.

On June 30, 1517, the Emperor convoked a Diet at Mayence to provide for the growing necessities of the Empire, for the public tranquillity, and for instituting measures against evildoers, especially Sickingen and Ulrich.

In order to put down the bandits and to secure public peace Maximilian begged for a levy of troops consisting of one in fifty of the male population; but the States refused this as dangerous and impracticable. On July 11 Philip Fürstenberg, deputy from Frankfort, wrote: 'Alas! no one can estimate the evils that may befall us from day to day—if God does not avert them!'

After enumerating the outrages committed, he continues: 'One hears nothing but complaints and lamentations, for which no one can find a remedy. May the Almighty God have mercy upon us!'

The unvarying answer of the princes to all appeals was that they sympathised deeply, but that in the face of unexpected events they were powerless to act. To the renewed entreaties for the enlistment of a militia, they replied that they had such hope in God and such confidence in the wisdom of the Emperor as to think the enlistment unnecessary; and that, owing to the inclemency of the season, the poverty of the crops, and the increased prices of provisions, it would be impossible to furnish the assistance demanded. However, in order to show their goodwill they instituted a committee to examine into the troubles, necessities, and revolts in the Holy Roman Empire. This committee returned their report, which contained many plausible expressions of admiration and loyalty for the German nation, but no practical suggestions for the remedy of the evils complained of. Albert of Brandenburg, archbishop of Mayence, presented the deputies 'who made such pretty speeches about the German land and nation with a little casket containing his portrait. But pretty speeches only are not of much use.'

When the Emperor, at the Diet of Augsburg, in 1518, recalled the action of the Mayence Diet in appointing the committee, the councillors of the States broke out anew in lamentations and idle speeches. The councillors of the Emperor, on the contrary, examined the evils complained of from a practical standpoint, proposed remedies in accordance with the existing laws, submitted to the Diet fifty-three articles, and gave the

assurance that matters might be righted. They demanded in the first place a radical reform in the laws of criminal justice; but the Diet of Augsburg was as inefficient as all the others.

With their usual petty selfishness the States kept harping on the expense of the Imperial Chamber, and did everything to prevent a practical result.

The Frankfort deputies gave vent to their indignation in bitter words. 'Would to God,' they wrote to the town council on July 10, 1518, 'that, with all deference to the will of his Imperial Majesty, no injury may accrue in many things. We believe that his propositions are good; but,' they wrote two weeks later, 'things drag on in a lamentable manner; we remain here, and nothing is done. The committee appointed to examine into the state of things has not decided on anything. Nothing has been done towards providing for the expenses of the Imperial Chamber; no one will trouble himself about it, the consequence of which is that no responsible person will attend it.' Three days later they wrote: 'The Diet will close without coming to any practical decision; principally because the electors, in spite of the Emperor, are so anxious to disperse.' Not one of the evils complained of was remedied. While the deputies were wasting words at the Diet, fresh outrages on the part of Sickingen were spreading alarm abroad.

In 1517 the Emperor had been obliged to come to terms with Sickingen, when, by the assurance of a yearly allowance, the bold bandit chief was induced to withdraw from his French alliance and to enter the service of the Empire. But it was impossible for him to live without pillage and private quarrels. In 1518 he availed

himself of a welcome opportunity to assist Philip Schluchterer von Erfenstein in attacking the imperial city of Metz. With an army of two thousand cavalry and from seven to eight thousand infantry he marched into the district, marking his path of destruction by the smoke of burning houses. Sickingen soon stood before the walls of Metz and began the siege, when the citizens purchased their safety by paying him the sum of 25,000 florins to retire.

Growing stronger and bolder, and always favoured by fortune, Sickingen determined to make the hated sovereign princes feel the weight of his resistless power, and to teach them the value of his friendship or hatred. While still in camp before Metz he planned to take advantage of the then weakness of the Landgrave Philip of Hesse and to plunder his possessions. Probably he had this adventure in view when he gathered so large an army. On September 8 he sent his challenge to the Landgrave, and carried violence and fire into his doomed territory. On the 16th he began the bombardment of Darmstadt with flying artillery and cannon. Among his allies was Götz von Berlichingen with his band. Philip being unprepared, and many of his retainers being in sympathy with the enemy, he found himself, like the city of Metz, obliged to purchase his safety. On September 23 the treaty was signed—the very day that the imperial decree for the banishment of the outlaws was passed. Besides the losses by incendiarism, Hesse had to pay a ransom of 90,000 florins. The injury done to the duchy amounted to nearly a million and a half florins.

This expedition, which lasted only a few weeks, cost the little Landgraviate half a million more than

Maximilian had vainly asked for to establish peace and order, and which was to be paid by the whole nation in the course of several years.

The hopes entertained by Maximilian himself, as well as by the entire nation, on his accession to the throne were not fulfilled. At the close of his life the Emperor said sorrowfully, ' Earth possesses no joy for me. Alas, poor land of Germany ! '

Contemporary historians who had opportunities of knowing and of observing do not hesitate to express their opinion as to where the responsibility lay. Not one of them blamed the Emperor or attempted to shield the narrow, selfish policy of the princes and of the States, while many regretted that Maximilian did not proceed more energetically against the hydra-headed power of the princes, which was the bane of the Empire, and, with the assistance of the lower classes, institute those reforms the necessity of which he so well understood.

In the year 1513 Trithemius expressed himself most concisely on the existing state of things : ' The Emperor has become powerless, and the princes are determined that he shall give them a free hand in everything, and govern entirely according to their pleasure. That which they promise they do not perform, and they have got into their own power most of the imperial revenues which accrue to him. The imperial taxes, which used to be a source of rich and secure revenue to the sovereign, are now almost entirely at the disposal of the princes and the cities, and the efforts which Maximilian has so often made to revive the revenue are always opposed by the selfishness of the princes and the States. They look to the Emperor for everything—peace and justice, quiet and safety ; he is

blamed and maligned before the people because the times are so disturbed and the outrages of the banditti grow more audacious, but no one asks what means he has for maintaining order. He has been accused of partiality to Austria, but no one can accuse him of neglect. What emperor for centuries has taken the affairs of the nation more to heart than Maximilian? Who more ingenious in devising means for its welfare? Who ever sacrificed more of his personal fortune to the nation than he? It is sad indeed to see how useless have been all his efforts, and heavy will be the responsibility of those whose fault it is that the country's foundation is shaken, that the princes quarrel among themselves, and that the robbers on the highways, and those still more dangerous ones, who steal in secret—the usurers—are plundering the people.'

The sad spectacle which the conduct of the princes presented during Maximilian's reign came to a crisis and was somewhat explained by their action at the next election of a king, as will be unfolded in the following chapter. Selfishness and absence of patriotism were so glaringly conspicuous on this occasion in the sale of votes, and in bribery of all sorts, that it required no great gift of prophecy to foretell that neither for the Emperor, nor the Empire, nor the people, was any very favourable issue to be expected.

CHAPTER IV

POSITION TAKEN BY THE PRINCES IN THE ELECTION OF A KING

From the beginning of his reign Maximilian had feared nothing so much as that France would take possession of the imperial throne, and that the honour and glory which Germany had so long enjoyed of wearing the highest crown of Christendom would be wrested from her. The fear of seeing Francis I. ascend the imperial throne actually drove Maximilian in 1515 to form the plan of abdicating the crown, of adopting the English King Henry VIII. as his son, of investing him with the sovereignty of Milan, and making him heir to the Empire. In the last years of his life he had the bitterness of discovering that the German princes themselves were conspiring to place the sceptre in the hands of the French King, and that most prominent among those who promoted this scheme was the House of Hohenzollern, the very one which of all the princely houses he had especially favoured. Maximilian had granted Joachim I., elector of Brandenburg, the reversion of Pomerania and Schleswig-Holstein. He had invested the Hohenzollern Prince Albrecht of the Franconian line with the Grand Mastership of the Teutonic Order; he had exerted all his influence in raising Albrecht, brother of Joachim, already in possession of the archbishopric of Halberstadt and the archbishopric of

Magdeburg, to the electorate of Mayence and the primacy of Germany. Albrecht's elevation to the dignity of cardinal was also a consequence of the Emperor's wish. By all these favours and promotions he had hoped to attach in close amity the House of Hohenzollern to that of Hapsburg.

On June 26, 1517, the Elector Joachim, through his ambassador, made a proposal to the French King for a marriage between a French princess (the sister of the Queen of France) and the Electoral Prince of Brandenburg, promising a dowry of 150,000 thalers and a yearly allowance of 4,000*l.* The German Elector further engaged for an annual payment of 8,000*l.* to furnish France with troops in case of war with Germany. In the contract of agreement, drawn up on August 17, Joachim promised the French King, 'whose renown and humanity were notorious through the whole Empire,' to use his influence for his election to the imperial throne after the death of Maximilian; and, 'for the honour of God and the good of Germany,' to give Francis his own vote. A few weeks later Joachim's brother Albrecht sent a secret agent to the French Court with full powers to enter into a treaty with Francis I., 'and to arrange several other matters.' This agent was the so-called 'true German Knight,' Ulrich von Hutten. Commissioned by Albrecht, Von Hutten wove the traitorous web, while in public he spoke eloquently against the French conspiracy, expressing great loyalty to Germany. In a circular sent to the princes in 1518, Von Hutten said of Maximilian: 'For over thirty years the Emperor has spent all the income of his hereditary dominions for the benefit of the Empire, resting neither day nor night, and when,

as in duty bound, he punishes an evil-doer we all cry out against oppression. We seem to think that liberty means indifference to the nation, refusal of all assistance to the Emperor, and letting evil go unpunished. Some among us, not indeed the princes, but princely councillors, propose giving the Empire on the death of Maximilian to a stranger—a disgraceful, dishonourable, disloyal proposition; as if the royal blood of Germany were extinct!' At the very time that he received a decoration for these loyal words Von Hutten was the bearer of a secret document promising the French King the vote of the Elector Albrecht.

The Hohenzollerns were not the only princes won over to France. Richard, elector of Treves, entered into negotiations with Francis I., and the Count Palatine Louis promised his influence in favour of France on condition of the yearly payment of 1,200*l.* and the restoration of some territory which he had lost by the decision on the Bavarian-Palatine inheritance question.

Besides those already mentioned Francis had, in the spring of 1518, by the promise of pensions won the connivance of the dukes of Lorraine, of Jülich and Berg, of Holstein, of Brunswick, and of several barons, counts, and lords. Full of hope, he sent his ambassadors to the Diet of Augsburg, only to prove the truth of Sickingen's warning with regard to the dependence to be placed on the princes. In July 1518 Joachim of Brandenburg had pledged his support to France; but at Augsburg things wore a different aspect.

Long acquainted with the secret machinations of France in the Empire, and having abandoned his intention of abdicating in favour of England, Maximilian

directed all his efforts to securing the throne for his grandson Charles. This latter had already in 1506, at the age of six years, on the death of his father, Philip, the only son of Maximilian, become heir to the throne of the Netherlands, and in 1514 he had entered into possession of it. On the death of his maternal grandfather, Ferdinand, two years later, he inherited the Spanish throne and its Italian provinces. On the death of Maximilian Charles would inherit the Austrian family possessions. The imperial crown was all that was wanting to complete the Hapsburg supremacy and silence all French claims.

At the opening of the Diet of Augsburg everything seemed to favour the Emperor. 'Gold, and still gold,' sent by Charles decided the election.[1] On August 16, 1518, Joachim of Brandenburg explained to the French ambassador that 'the affairs of his lord looked desperate, for Charles had already five votes [among them Joachim's own] against two. But,' he added, 'the Archbishop of Mayence and other electors might be won over by money.'[2] The money, however, did not arrive in time, and Maximilian's negotiations with Joachim came to an end. The Emperor promised his granddaughter Catherine in marriage to the Prince of Brandenburg, with a dowry of 400,000 florins 'for marriage money and ornaments.' The fourth part of this sum was handed over to Joachim immediately, besides 6,700 florins to pay his expenses at the Diet. Maximilian wrote to Spain: 'The Margrave Joachim

[1] In a letter to his grandson Maximilian gives him his own experience in these words: 'Pour gagner les gens il faut mettre beaucoup en aventure et débourser argent avant le coup.'

[2] See Mignet, p. 228: 'On pourrait regagner l'archevêque de Mayence et les autres électeurs à force d'argent.'

costs a good deal, but his avarice is to my grandson's advantage, for through it he will gain his end.' [1]

The Emperor gave the Elector Albrecht of Mayence a bribe of 52,000 gold florins, besides the promise of a pension of 8,000 gold florins. The Elector Herman of Wied asked only 20,000 florins for his vote, and a pension of 6,000 gold florins a year. But his chancellor and councillors had to be remembered with presents and pensions. The vote of the Count Palatine Louis was secured in the same manner, and the vote of Bohemia was gained through the Polish king, Sigmund, as guardian of the young King, still a minor.

Only Richard, elector of Treves, and Frederic of Saxony were not to be influenced,[2] the former because he was secretly pledged to France, and the latter because, true to the admonition of 'The Golden Bull,' he reserved his decision until the day of election. Maximilian was deeply wounded by the refusal of Frederic to vote for him, but he respected his principle, and sent him his best wishes as 'an honest and conscientious elector.' He hoped that on the day of election Frederic would be true to the House of Hapsburg. On August 27 the electors of Mayence, Cologne, the Palatinate and Brandenburg, and the Bohemian deputies gave their votes, while the Emperor on his side, in the name of his grandson, confirmed all the electoral privileges and freedoms, besides making other promises, and taking them under his protection in case they had to suffer the displeasure of the Pope

[1] '. . . cõuste beaucoup à gagner; toutefois son avarice est avantageuse au seigneur [Charles], car par elle il parvient à son désir' (Le Glay, *Négociations*, ii. 172).

[2] Saxony was to receive 60,000 and Treves 20,000 florins (Le Glay, ii. 172).

or the French King on account of their choice. The whole business of the election was to be concluded at a Diet at Frankfort in January 1519.

But Francis I., informed by the electors of Brandenburg and Treves of what was taking place at Augsburg, was not at all disposed to abandon his pretensions to the imperial crown. On October 20, 1518, he declared that he would beg the Pope's nuncio to do everything he could to prevent the election of Charles; and that he would bribe the electors with money and promises not to stand by what they had promised at Augsburg. The mother of the King complained bitterly of the unreliability of the German princes.[1]

Leo X. was opposed to the election of Charles because Spain and Naples, until then papal fiefs, would be included in the Empire In November he proposed to the French King to use his influence for the election of Frederic of Saxony. Francis to all appearance agreed, and wished the Pope to believe that he had abandoned all pretensions to the imperial crown; but at the same time he was encouraging the Venetians to revolt, in order to further his own desire to be Emperor.

In December, Albrecht of Mayence had again entered into negotiations with France, and assured Francis that he and his brother Joachim were devoted to him. He told a French messenger who had been sent with royal Christmas presents to him 'as a lover of

[1] The French nuncio reports an interview with the Queen-Mother: 'Dolendosi fin al cielo d' alcuni principi d'Alemagna, quali in questo modo ed in molti altri casi hanno offerto e promesso al re ed a lei che poi non hanno osservato. Estremamente si dolse del marchese di Brandenburgo che fuor d' ogni sua promessa e gioja mandata qua . . . havesse lasciata Madame Renea e prese la sorella del Catolico per suo figlio, chiamandolo mancadore (sc. di fede).' See Höfler, p. 82.

art,' that he 'still cherished the hope that by some happy turn of things he would one day be able to greet the noble and generous King Francis as Emperor.'

This 'happy turn of things' seemed likely to be brought about by the unexpected death of Maximilian on January 12, 1519. 'He is dead,' wrote a loyal follower of the House of Hapsburg—'he who knew so well how to guide and direct affairs; he who was both loved and feared! Now things will be very different.'

Only two days after the death of the Emperor the Count Palatine went over to the French King with the offer of his vote on the same pecuniary conditions as before, on the understanding that the negotiations should be kept secret. Francis once more sent a brilliant embassy to Germany, with orders to 'give each elector whatever he demanded.' When President Guillard, one of his confidential friends, represented to him that he should prove his fitness for the imperial crown by honourable means and personal merit, not by money-bribes and promises, Francis made the following answer: 'Your advice would be excellent if we had to deal with a people who possessed virtue, or even the shadow of it!'

The Hohenzollern brothers were among those most favourable to the French, but at the same time they were the most covetous.[1] At Augsburg Joachim had received Hapsburg gold—more of it, indeed, than he had ever spent in the management of his princedom

[1] The French agent, Joachim von Maltzen, a Mecklenburg nobleman, wrote to Francis on February 28, 1519: 'Tout ira bien si nous pouvons rassasier le margrave. Lui et son frère l'électeur de Mayence tombent chaque jour dans de plus grandes avarices' (Mignet, p. 251). Zevenbergen calls Joachim the father of avarice and 'ung homme diabolique pour besoigner avec lui en matière d'argent' (Le Glay, ii. 239).

during the whole of his reign—and now he coveted French gold into the bargain. His demands were so extortionate that the French agents complained. 'He demands gold as if he were extorting from barbarians'; to which Francis replied: 'I wish the Margrave to be satisfied.' On March 9 he wrote to his relative, the Grand Master Albrecht, that he 'stood as well as formerly with the *Lilies*, and hoped the French projects would succeed.' The price he asked for his vote was a life pension of 4,000 thalers and 2,000 to his son, the electoral prince. The Princess Renée, one of the daughters of Louis XII., was promised in marriage to the electoral prince, with a dowry of 200,000 thalers. Should Francis be elected Emperor, the Margrave was to be his governor-general in Germany; but in case of the failure of this plan the French King was to use all his influence to procure the throne for Joachim.[1] During the lifetime of Maximilian Joachim had so debased himself as to enlist recruits for France; and now he required Francis, with a view to his election, to have a strong military force in readiness.[2]

While Joachim was negotiating with France, Paul Armerstorff, the Hapsburg agent, was actively soliciting the influence of Albrecht of Mayence for the election of Charles. Besides the sum that had been promised him at Augsburg for his vote, Albrecht now demanded 100,000 florins. After lengthy bargaining, however, he came down to 60,000, then to 50,000, and finally to 20,000. In writing of Albrecht, who betrayed all the French negotiations to him, Armerstorff said to Charles: 'I blush for him.[3] The 20,000 florins worked miracles,

[1] Le Glay, ii. 387-390; Mignet, p. 236.
[2] Le Glay, ii. 332.
[3] Mignet, p. 244: 'J'ai honte de sa honte . . .'

as you may perceive by the letter of the archbishop of Mayence to his brother, a copy of which I send you.' [1]

This 20,000 florins had suddenly changed Albrecht into an enemy of France, and he wrote thus to his brother Joachim on behalf of Charles's claim: 'I beg of you to consider the honour of the Empire, the nation, and yourself. If the imperial crown should pass to strangers, to those so long separated from the German people, Germany is lost! They would tread it under foot and try to make themselves hereditary rulers.' [2]

But Joachim knew well what value to place on his brother's words. He answered that he had pledged both their votes to the French King, and that they must be true to so generous a King as Francis had proved himself to be, and they must both use their influence with the other princes on behalf of France.

The result was that Albrecht, who had broken all his pledges to France and assured Armerstorff that as a man of honour he could not be influenced by money, went back again to the cause of Francis as soon as he found French agents in Mayence offering increased bribes. This man of honour promised the French King, 'For the honour of God and the re-establishment of the Roman Empire,' that he would vote for him on condition of receiving an annual sum of 10,000 florins and 'the gift of 120,000 florins for the building of a church in Halle.' He also required of Francis that he should use his influence to have him appointed permanent legate in Germany. He promised on the word of a prince to be loyal to Francis, in return for which the latter promised forgiveness of his conduct at Augsburg.[3]

[1] Le Glay, i. 143. [2] Mignet, p. 243.
[3] Le Glay, *Négociations*, ii. 379-387.

The Count Palatine Louis acted in the same manner as Joachim and Albrecht, promising his services by turns to Francis and to Maximilian. In March 1519 he said to his peers that should Francis be elected there would be great danger of his using the Holy Roman Empire in the interests of France and for the extension of his territory ; also that it would be a disgrace, and a cause for the censure of other nations, to bestow the imperial crown on a foreigner ; that on account of the hatred the Estates bore the princes it would give ground for an uprising.[1] In April an increase of the sums promised him at Augsburg induced Louis to pledge his support of the Hapsburg claim ; but in May still larger bribes won him once more back to France. On May 28 he wrote : ' In order that our most ardent desires may be accomplished, we earnestly pray the most Christian King, for the sake of all Christendom, not to desist in his claim to the imperial dignity. We pledge him our princely word and loyalty, and will use all our influence to win the other electors to his cause, believing that we could do nothing more calculated to give honour to God and benefit to Christendom.' [2]

For this ' pious act ' Louis was to receive from the French King 100,000 florins and an annuity of 5,000 crowns—not as ' a mere pensioner,' but ' as one of the mightiest of princes and the friend of France.' His brother, Count Palatine Frederic, was promised 6,000 florins if he would consent to take service in the cause of France ; two other brothers were to receive bishoprics in France or Germany ; and councillors and servants were to receive 2,000 florins yearly. Francis, moreover, promised to help Louis to recover the towns and

[1] Roesler, p. 98. [2] Mignet, p. 254.

castles in Hesse and Nuremberg which he had lost in the Bavarian Palatine wars.

Such was the conduct of the Palatine 'Pilates,' as they were called by Armerstorff.

The Hapsburg diplomat, Maximilian Zevenberghen, wrote to Margaret, aunt of Charles: 'The prodigality with which the French shower propositions, presents, and money on the electors is extraordinary. This is all perilous for Germany.' 'I never saw greed to equal that of the electors, who are buying scourges for their own flagellation.' [1]

Even before the conclusion of the contract with the Prince Palatine, Treves had also, in consideration of large bribes, promised his vote to France with a zeal which the French described as 'leaving nothing to desire.' Francis depended on the electors of Brandenburg and Mayence to gain over Saxony and Cologne; but all the efforts of the Hohenzollern brothers proved vain with archbishop Hermann of Cologne and the Elector Frederic of Saxony. Frederic also resisted firmly all the solicitations of Duke Henry of Lüneberg, who was commissioned by the French King to enjoin Frederic to use his influence in Saxony to prevent a Hapsburger from ascending the throne. The House of Austria, he was to be told, had in the person of Maximilian ruled with far too much power, and had suppressed the development of the States. But Frederic knew from long experience the falseness of this assertion, and the Hapsburg party, not without reason, hoped that the fact of Francis having promised, in the event of his

[1] See Höfler, pp. 65, 66. Ulmann writes: 'It is shameful to see how Charles, a Bourbon, has been betrayed, and how among us Germans such treason is taken as an excusable thing.'

election, to make the Duke of Brandenburg his governor in Germany would prevent the Saxon Elector's voting for France. With regard to the buyers and sellers of votes, Frederic expressed himself as follows: 'Would to God that those who do so should have horns grow on their foreheads, so that all men might recognise them! It has got to be the common belief that the election of the Roman Emperor is a question of money. Woe is me if this be true!' [1]

Even should he not gain all the electors to his side, Francis felt sure of a majority of them. But he determined, in case of his success being doubtful, to have recourse to arms. 'I should be glad to avoid bloodshed,' he wrote to one of his ambassadors, 'but things having gone so far, I could not with honour retract my claims.' Among the princes bought by his bribes, the Dukes Henry and Albrecht of Mecklenburg promised him their support on condition of receiving an annual pension of 3,000 gold florins. Joachim of Brandenburg promised Francis not less than 15,000 infantry and 4,000 cavalry. 'The French King,' wrote Joachim to the Landgrave Philip of Hesse, 'thanks to the German princes, can place 30,000 infantry and 3,000 cuirassiers in the field near Frankfort. This army will ensure the carrying of the electors' choice.' Notwithstanding the advice of his father-in-law, Duke George the Bearded, of Saxony, 'not to join the French, but to remain a true, loyal German,' Philip of Hesse prepared to take up arms for Francis.

Francis had no longer any fear as to the result of 'the great undertaking,' and the jewels for the Queen-Mother, to be worn at his coronation, were openly

[1] Le Glay, ii. 235.

discussed in Paris. The Queen threatened the electors with 'disagreeable disclosures' should the election of her son fail.

'Oh, you princes!' exclaims Sebastian Brant in his epigrams, 'will you not turn to justice? You are pledged to France—surely, surely you will repent. Germany, thy ruin is at hand.' And again: 'Look to thyself, O Holy Empire! that thy eagles do not disappear. Do not let thy crown and sceptre pass into strangers' hands. It would be an evil day for us all, and Germany's ruin.'

After the death of Maximilian, Charles left nothing undone to circumvent the French intrigues and to secure the imperial crown. On May 6 he wrote to Frederic of Saxony: 'We know of no stronger claims to the imperial crown than ours, not on account of our German blood alone, but because our forefathers, as Emperors of the Holy Roman Empire, have governed well.'

In a circular addressed to the electors setting forth his claim, Charles laid particular stress on his German descent. He assured them that were he not the legitimate heir and the rightful sovereign of several German provinces he would not aspire to the imperial throne. As the true heir of the House of Austria, and after the example of his ancestors, he would devote himself to augmenting, rather than diminishing, all ecclesiastical and temporal liberties, and would avoid everything that tended to compromising them. He also commissioned his agent to the Swiss Confederation to remind them that he was Duke of Austria and of Brabant—both of them German provinces and fiefs of the Roman Empire; that he spoke Flemish and High German, in which

languages he wrote to the electors; and that he was of German descent, born and brought up on German soil.

Next to his German extraction, Charles dwelt with particular emphasis on the fact that his large possessions, united to the imperial dignity, would make him especially fitted to oppose the Turks, who were threatening all Christendom. It was his determination to devote himself to the fostering of freedom and harmony among nations and to the defence of the Christian faith. In a letter to his aunt Margaret he wrote he 'was determined to gain the imperial crown in order to protect the faith and confound the infidel.'[1] . Paul Armerstorff assured the archbishop of Mayence that 'the young King daily begs God to make him an instrument to protect the faith and overcome the infidel. Although Charles is but nineteen years of age, he is wonderfully resolute and just, and of a most amiable disposition—worthy of bearing the imperial crown and of becoming the foremost protector of Christianity.'

In February the agents of Charles redoubled their efforts at the different electoral Courts. The Swiss declared in his favour, and in an address to the electors the Federal Diet expressed their opposition to the French claims, and their displeasure at the underhand

[1] See Mignet, Letter of March 5, 1519. Margaret had proposed to him to present his younger brother as heir to the German throne. Roesler remarks that Charles's letter showed the firmness of the future Emperor. See also in the confidential letter of Charles to his brother-in-law, Christian, King of Denmark, the frequently cited words: 'Electionem quodammodo in auctione ponunt.' He did not conceal that the desired end would strengthen his political position, 'pro stabilimento nostrarum rerum omnium huic electioni totis viribus intendere' (*Archiv für Staats- und Kirchengesch. des Herzogthums Schleswig-Holstein und Lüneburg*, v. 502).

methods by which Francis was trying to obtain the imperial crown. They insisted that his election would result in censure, dissension, and war, not alone in Germany, but throughout the Holy Roman Empire and all Christendom. 'The Germans,' they added, 'have acquired the imperial power at the cost of much bravery and bloodshed, and it is only meet that they should continue to possess what has been theirs for over six hundred years. Notwithstanding the expressions of goodwill made by the French King towards the various states, especially to us, claiming that we have long been in sympathy with France, we declare to the electoral princes that we never wished to be disloyal to the Holy See and to the Emperor, and that we should regret to see the imperial eagle, which we bear on our flag, torn from the German nation and given to a foreigner.' [1]

During the first months the reports which Charles's agents were able to send in of their success with the electors were by no means favourable. They complained of the meagreness of their offers in comparison with the bribes of the French. Votes which the Hapsburgers had thought to secure, especially those of Mayence and the Palatinate, were won over by French gold. Much trouble was caused them by the Papal legates then in Germany and working against Charles's election, and by the dealings of Henry VIII. of England, who also came forward as a claimant to the imperial crown and was soliciting the votes of the electors. The Pope favoured Henry, with the idea that with the transfer of imperial authority to England the Houses of

[1] Zürich, 1519 (Monday after Lætare), April 4, Bucholtz, i. 97, 98. The Swiss declared to the French ambassador that the Roman crown belonged by right and tradition to the Germans. See Roesler, p. 117.

Hapsburg and Valois would be reduced to equality, and that then, with the assistance of England, he (the Pope) would be able to preserve the peace of Europe. Henry's skilful diplomatist, Robert Pace, received instructions to appear to the French to be working for the election of Francis, and to the Hapsburg party to be on their side, while in reality he was to press the claims of Henry as a prince of German extraction.[1] But above all things he was to use all his efforts to prevent any but a prince of German blood being elected.

The French admiral Bonnivet, while concealed behind some tapestry in the palace of Joachim of Brandenburg, heard Pace trying to persuade the latter not to give his vote to any but a German.[2] Joachim, however, could not be moved, and on May 1, 1519, he wrote as follows to Francis: 'Your Majesty may rest assured as to the result of our negotiations.' He spoke of his powerful influence with the electors of Cologne and Bohemia, and promised to do what he could in Mayence, and to continue the efforts he had ever made for the French King, addressing the latter as his 'loved and sovereign lord.'

In the meantime Albrecht had once more changed his policy. He had *discovered good reasons* for being very patriotic, and declared that it 'was everyone's duty to choose a German, and from the Germans one of pure Austrian blood.' Charles had sent Albrecht offers higher than Francis could possibly make: he promised to consult him in all national affairs, to give him the fullest powers in the Imperial Chamber, with the

[1] 'To elect the kinges hynesse, which is of the German tonge. Pauli, p. 430, note 5.

[2] Pauli, p. 431, note 4.

privilege of naming himself to the vice-chancellorship. Charles also promised him his support in his suits with Saxony with respect to Erfurt, and with Hesse on the subject of a new tax; and, moreover, the promises of presents and pensions which Maximilian had made Albrecht at Augsburg were renewed at Mechlin and Antwerp. Albrecht's avidity seemed to centre mostly on ecclesiastical preferment. Although already possessed of the archbishoprics of Magdeburg, Halberstadt, and Mayence, he still coveted a fourth, and Charles promised to use his influence with the Pope in his behalf. Besides, he asked (what Francis had already promised him) to be elected permanent legate. Thus the German Church at the moment of its most serious crisis would be under the rule of a man who led anything but an apostolic life, and who had not the slightest pretension to dignity of character.

All these promises, however, did not prevent Albrecht from continuing his negotiations with the English ambassador. Immediately before the day of election he signified to Pace that his vote might be changed in favour of Henry if the latter had in readiness a sum equal to that spent by Charles, namely, four hundred and twenty thousand gold crowns. Pace immediately began offering secret bribes on the scale indicated by the princely hint.[1]

But at the decisive moment the popular loyalty to the House of Hapsburg proved more powerful than gold and silver, diplomacy and intrigue. Robert Pace was

[1] For the enormous expense of Charles's election, see *Die Abhandlung von B. Greiff in dem Jahresbericht des historischen Vereins zu Augsburg*, 1869. The Elector Frederic of Saxony did not certainly ask any bribe, but he allowed Charles to pay his debts, amounting to 32,500 golden florins.

made the witness to this loyalty when he received at Cologne the most flattering honours on account of his supposed support of Charles. In his report he said, 'All classes are prepared to sacrifice life and fortune to prevent the election of Francis.'

The Papal legate was threatened with banishment for having used his influence against Charles. The people declared they would punish the electors if they did not fulfil the pledges they had given Maximilian. And, in fact, in March the Rhenish lords and barons made known to the electors assembled at Wesel that they would do all in their power to oppose the election of the French King. In Upper Germany also the popular feeling in favour of Charles increased each day. Augsburg, Ulm, and Nuremberg forbade their bankers to open accounts with the French. At great personal loss the Fuggers refused to negotiate with the agents of Francis I., and opened a large credit with the agents of Charles. Francis had provoked the enmity of this part of the country by taking Ulrich, Duke of Würtemberg, under his protection and encouraging his violent measures.

Ulrich had forcibly seized on the imperial city of Reutlingen, destroyed its flag, and reduced it to a Würtemberg dependency. By the aid of French gold he raised a considerable army, with which he overpowered the Dukes of Bavaria, with the intention of giving at the last moment a casting vote for the French King. Ulrich's arrogance was, however, of short duration. An armed force fitted out by the Suabian League, under the command of Duke William of Bavaria, marched on Würtemberg, put Ulrich to flight, and in a few weeks reduced the entire territory.

Franz von Sickingen with about seven hundred cavalry had joined the campaign against Ulrich. The efforts of the French King to win back to his side this 'mightiest of knights,' and to make use of his help in obtaining the imperial crown, proved of no avail. Sickingen had become 'entirely Austrian,' and 'as far as in him lay would hear of none other than the illustrious King Charles being elevated to the highest throne of Christendom.' It was not so much greed of gold which had wrought this change as the hope that with the assistance of this young and inexperienced king, generally supposed to be weak and yielding, he would be enabled in the future to carry out his far-reaching plans against the constitution. On the conclusion of the attack on Würtemberg he, together with his friend George Frundsberg, and a force of twelve thousand infantry and two thousand cavalry, put himself at the service of the House of Hapsburg. This army was destined to oppose Francis, who was massing large bodies of troops on the German border with the avowed intention of taking the throne by force in case the vote of the electors was unfavourable to France.

In the middle of June the troops were gathered round Frankfort, where the election was to take place, in order to guard against the possibility of an attack on the city. The electors and princes already assembled there began to realise the danger of their position. On June 24 Robert Pace wrote: 'The army, stationed within a mile of the city, begins to assume a threatening aspect. The princes and lords declare openly that they will have no other emperor than Charles, and the popular voice is in his favour.'

Pace, in writing from Mayence to his King on the

same date, expressed a fear for his personal safety in case of Henry VIII. being elected. Joachim, who remained attached to the French cause, remained in Frankfort at the risk of his life. Later Pace wrote to the Venetian ambassador, 'The people would have cut the electors in pieces had Francis been elected.' [1]

According to Pace, as soon as Francis I. saw that his own election was impossible, he directed all his efforts to securing the imperial crown for Joachim, 'that he might at least say that he had made an Emperor.' The Margrave left nothing undone to obtain his own election.[2] He believed that fate had decreed that the head of the House of Brandenburg was destined to bear the highest dignity of Christendom. But all his exertions were in vain. When he pressed his claims in Frankfort, the Elector Richard of Treves opposed him, and Albrecht of Mayence declared his brother the Margrave 'a fool.'

On the other hand, several votes were given for Frederic of Saxony, whom the Pope favoured, and the

[1] The far-reaching schemes in connection with the election of Francis I. were disclosed through the interception by a Rhenish baron of a letter addressed to the French agents in Germany. The plan was, first, that with the help of the Elector of Brandenburg and the Duke of Würtemberg, whom he thought to reinstate in his country, Francis should collect as much money as possible; next, that he should subjugate the whole of Italy, and then deal with the rest of Christendom as he pleased. The courier in question was the Lord of Maltzau, carrying the letters of the Elector Joachim of Brandenburg. Roesler, p. 124. Ulmann, *Sickingen*, p. 156.

[2] 'The marquis of Brandenburgh doth continually labore for to obteigne the imperial dignitie, and the Frenche king wull promote him therunto as muche as schal lye in hys power to thintent, that he maye saye, that he hath made an emperor, thoghe he couith not obteigne hymselfe.' Pauli, p. 430, note 3.

Elector of Treves, who saw that the popular voice was strongly opposed to a foreigner, begged him to accept the imperial crown. Frederic was deaf to all such solicitations ; and, indeed, he would hardly have received a majority of the votes of the electors, who at the last moment were constrained to go with the popular will. A pamphlet emanating from the Chancery of Mayence gives us the best idea of what the popular feeling was. It declared that ' no prince in Germany at that period was in a position to meet the necessary expenses attending the wearer of the imperial crown, and it would be impossible to levy new taxes, for the country was exhausted and bankrupt, while a peasant outbreak was imminent, in which event many would join the Swiss Confederation or whatever Power promised them the greatest security. The Turks would also attack Germany and Christianity, and, overcoming all obstacles, subject us to their tyranny. Only a prince possessed of sufficient means to avoid burdening the people with fresh taxes could restore peace and reinstate the nation in its former position. This chief must, however, be of German descent, so that the nation might not be robbed of the imperial crown, its most precious honour. Therefore the King of France must not be thought of for a moment. He governs his subjects with an iron hand, and is always quarrelling with his neighbours. His thirst for aggrandisement would cost the nation severe loss and much bloodshed. Under his sovereignty Austria with her dependencies would be lost, and we should be reduced to a state of insurrection.'

Such considerations, strengthened by the constant loyalty to the House of Hapsburg, gave the popular voice to Charles, whose election now seemed certain.

The Pope, 'in order to avoid being an occasion of war or scandal,' informed the electors through his legates of his desire to see Charles elected, without any reference to the question of the Kingdom of Naples.

On the 28th of June the election took place, and the announcement of the choice of Charles was received by the people with the most enthusiastic applause.

CHAPTER V

SURVEY AND RETROSPECT

The period of German reform which began in the middle of the fifteenth century produced the most splendid intellectual results. It was a time when culture penetrated to all classes of society, spreading its ramifications deep and wide ; a time of extraordinary activity in art and learning. By catechetical teaching, by sermons, by the translation of the Holy Scriptures, by instructional and devotional publications of all sorts, religious knowledge was zealously diffused, and the development of religious life abundantly fostered. In the lower elementary schools and the advanced middle schools a sound basis of popular education was established ; the universities attained a height of excellence and distinction undreamt of before, and became the burning centres of all intellectual activity. And more even than learning, art was seen to blossom and develop on the soil of national religious life, beautifying all departments of life, public and private, secular and ecclesiastical, in the worthiest manner ; while in its many grand and comprehensive works, inspired by the then prevailing sense of Christian brotherhood, it manifested the real core of the German genius and character.

Political Disruption

Very different, however, was the case with things political. It is true that a large number of those men who had been instrumental in stirring the religious and intellectual movement of the nation—first and foremost Nicholas of Cusa—had also given their attention and labour to political questions. They were full of enthusiasm for the Roman sovereignty of the German nation; they longed for the restoration and consolidation of its ancient unity, its peace and order at home, its power and prestige abroad; but their hopes and efforts in this direction were, in the main, frustrated. At the same time, many of the reforms which Nicholas of Cusa had pointed out as indispensable to the reorganisation of the State did eventually become, in more or less modified forms, the law of the land. The right of private warfare was abolished, the perpetual peace established, the Empire partitioned into districts, with a view to the better maintenance of peace and law, and district government established. Despite the barrenness of the written records which relate to those long years of reform struggles, they testify unmistakably to a spirit of unity between Church and State, and up to the beginning, at any rate, of the fifteenth century they hold out hopes of a happy solution of affairs.

From this time, however, the outlook of affairs grows more and more sinister. What Nicholas of Cusa had prophesied was fully realised, viz. that unless the imperial power was restored in the ancient sense of the word, no effectual and lasting reforms could ever be accomplished. Imperial taxation and an imperial army, the two indispensable pillars of imperial

government, though repeatedly promised, were never granted, and the imperial power was so weakened in consequence that every description of outrage and violence went unpunished, and the Empire was a prey to anarchy and confusion.

This rotten condition of political affairs facilitated, in the last decades of the fifteenth century, a fatal revolution in the department of law.

Evil Effects of Foreign Code

Instead of reforming and reviving the decayed fabric of national legislation according to the cherished plan of Nicholas of Cusa, whereby the old traditional rights and customs would have been preserved and built up into a general system of law in harmony with the spirit of the German people, a foreign code was introduced, and all existing legal usages underwent a sort of earthquake shock. The administration of justice was thrown into utter confusion, and the ancient freedom of the people almost buried in the ruins of their ancient traditional rights. The hitherto freest people in the world were henceforth to be governed in Italian fashion. This foreign code, moreover, fostered the growth of a princely despotism which was entirely at variance with the whole genius of the German nation, regarding itself as the fountain of all law and justice, and bidding fair before the expiration of the fifteenth century to rival the tyranny of Popes and Cæsars.

Socialist Tendencies

The social conditions of the Empire were also perniciously affected by the introduction of this foreign system of legislation. To it may be mainly attributed that widespread discontent among the peasant classes which produced constant seditious risings towards the close of the Middle Ages, and justified the worst apprehensions of a serious revolution. The peasants stood up in defence of their ancient rights and privileges, and armed themselves against the foreign code and its accompanying growth of princely despotism, and, above all, against the revival of bond-servitude, which had almost disappeared by the middle of the fifteenth century under the Christian German law, but which now threatened to become re-established. But legitimate resistance very soon became mixed up with socialistic and communistic tendencies. Apostles of social and individual equality arose even in Germany. The working classes in town and country made common cause together, and received help and encouragement from the many proletariat leaders who had sprung up among the nobility.

The chief causes of the socialistic movement lay in the general upset of social administration brought about by the Roman Code, in the growing discontent with political affairs, and in the revolutionary effect of the foreign law on the conditions of the peasant classes.

By the wealth of its agriculture, its forest and pasture lands, and its grape culture ; by the wonderful progress of all its different branches of trade and the productiveness of its mining industry, as well as by the immense extent of its commerce, which covered nearly

all Europe, Germany had become the richest of European nations. The condition of the labouring and artisan classes at the beginning of the sixteenth century had been, as a rule, very favourable; but by degrees the equilibrium and interworking of the great labour groups had become materially disturbed by the enormous growth of commerce, which outrivalled productive labour, and by the great competing trading companies which sprang up everywhere, in spite of the imperial laws, and systematically preyed on the capital of the working classes.

Increase of Luxury

Complaints were universal of the evil influence on trade of the great speculators and capitalists, of the raising of the value of money, of the increasing price of all necessaries of life, of the adulteration of food: in short, of the systematic oppression of the needy by the wealthy. These influences worked all the more perniciously because the propertied classes paraded their wealth by an extravagance of expenditure and luxury which exceeded all bounds of common sense and dignity, and made the less fortunate and the penurious classes feel all the more keenly the contrast between their position and that of the rich. Even the working classes were bitten with the general love of display.

Wealth and prosperity had produced luxury and ostentation, and luxury and ostentation encouraged the greed of gold, and fed the desire for more and more wealth and enjoyment. 'Never before,' says Geiler von Kaisersberg, 'had there been so marked a contrast between willing love and heartless avarice, between

renunciation in the name of God and godless self-seeking.'

Church Teaching and Charitable Institutions

But in the midst of this mammon of unrighteousness it was a goodly sight to behold the abundant growth of good works springing up on the soil of Church teaching: the countless charitable provisions against poverty and human wretchedness; the numerous hospitals, benevolent endowments, orphanages, hostels for needy travellers and pilgrims, as well as institutions for the promotion of national education and of science and art. 'Our fathers and forefathers,' wrote Martin Luther, 'kings, princes, nobles, and others, gave generously, lovingly, and overflowingly, to churches, parishes, institutions, and hospitals.' The voluntary offerings for good works were so constant and abundant that there was never any need anywhere, in town or country, for government or public donations, for the levying of poor-rates or school-rates, or for house-to-house collections. And even at the present day we enjoy the benefit of many institutions which had their origin in the fifteenth century. The various clerical orders and religious associations of the period set on foot, noiselessly and unostentatiously, a splendid system of benevolent activity for the care of the sick and needy; the alms deposited at the doors of monasteries were often far in excess of what was required. The whole teaching of the Church, as regards national economy, aimed at the lessening of human poverty and misery, at the protection of the working classes, and, as far as possible, at instituting a just and equitable distribution of material

wealth and property. Not the profit and gain of the individual, but the union of all in brotherly love, was, according to the point of view of the Church, the basis of true political economy. Hence all writers on canon law, and the synodical meetings of the period, opposed the strongest resistance to usurers and monopolists, and urged insistently, on those who had the care of souls, the duty 'of advocating in their sermons the cause of the poor, the widows, and the orphans.' The pioneer labours of Cardinal Nicholas of Cusa sent a fresh wave of reform stirring in the German Church. At scarcely any other time of German Church history was the activity of synods so abundant and many-sided as in the period from 1451 to 1515. Over and above the provincial councils of Mayence, Magdeburg, Cologne, and Salzburg, there were a good many more than a hundred diocesan synods held at the same time in different districts, and from their decisions, which reflected the whole external and internal character of the Church, we get an insight not only into the countless abuses under which the Church laboured, but into the remedies which were applied against them. In the midst of the human corruption with which these councils and synods were rife the pure spirit of the Church shines out conspicuously. Those also among its own dignitaries who were personally unworthy and degraded were obliged, when thus brought face to face with the Church in their official position, to give personal expression to its holy laws and precepts, and thus forced to contrast their own lives with what they themselves were expected to teach. Many bishops distinguished by virtue and learning were among the active promoters of reform.

The Clergy of the Period

Piety and love of learning pervaded the ranks both of the secular and the monastic clergy, and the most active and accomplished supporters of the art of printing were to be found among them. Moreover, the immense 'book guild' of that century was almost entirely devoted to the supply of the literary requirements of the clergy. James Wimpheling, the stern denouncer of worldly and indolent priests, writes as follows: 'I can point, God knows, in the six bishoprics of the Rhine, to many, yea to countless, true priests among the worldly ones—many richly equipped with knowledge and blameless in life and morals. In the cathedrals as well as in the parish churches I know numbers of distinguished prelates, canons, and vicars—numbers, I say: not a few only—who are men of spotless reputation and full of piety, generosity, and humility towards the poor.' In another place he speaks of 'the many sons of most honourable burghers, bearing the doctor's degree of holy theology, whom by the grace of God we see at the head of the parish churches in many German dioceses. Formerly, may be, there was a dearth of such men, but now, thanks to the art of book-printing, which by the grace of God the Germans have discovered, there come forward, day by day, a larger number of learned men, to whom with great profit the care of souls is entrusted.'

Clerical Abuses and Scandals

But the contrast of 'pious love and worldly greed, of godly renunciation and godless self-seeking,' made itself apparent in the ranks of the clergy as well as in

other classes of society. By too many among the ministers of God and of religion preaching and the care of souls were altogether neglected. Avarice, the besetting sin of the age, showed itself among the clergy of all orders and degrees, in their anxiety to increase to the utmost extent all clerical rents and incomes, taxes and perquisites. The German Church was the richest one in Christendom. It was reckoned that nearly a third of the whole landed property of the country was in the hands of the Church, which made it all the more reprehensible in the ecclesiastical authorities to be always seeking to augment their possessions. In many towns the Church buildings and institutions covered the greater part of the ground. Within the sacerdotal body itself there were also the most marked contrasts in respect of income. The lower orders of parochial clergy, whose merely nominal stipends were derived from the many precarious tithes, were often compelled by poverty—if not tempted by avarice—to work at some trade which was quite inconsistent with their position, and which exposed them to the contempt of their parishioners. The higher ecclesiastical orders, on the other hand, enjoyed abundant and superfluous wealth, which many of them had no scruples in parading in such an offensive manner as to provoke the indignation of the people, the jealousy of the upper classes, and the scorn of all serious minds. 'Strutting along among the prelates,' writes Johannes Butzbach, 'one sees pompous, puffed-up individuals, apparelled in finest English cloth, with jewelled rings blazing on their hands, which they take care to spread out so that all may behold them; or else they ride on horseback, followed by a countless retinue of gaily dressed servitors. They build them-

selves magnificent dwellings with stately halls adorned with paintings, in which they hold sumptuous banquets, and they squander the proceeds of pious endowments on feasting, bathing, hunting, and other pleasures.' 'The higher ecclesiastics,' he says elsewhere, 'are much to blame for neglect of duty. They leave their flocks to strange shepherds, but they take good care to appropriate the tithes. Many of them think only of getting as many benefices as possible for themselves, without fulfilling the duties belonging to them, and they spend the revenues of the Church on servants, pages, horses and dogs. They vie with one another in luxury and extravagance.'

Plurality of benefices was, indeed, the gravest of all sacerdotal abuses, and it worked most injuriously on the whole system of Church life in those days. A further iniquitous development of the evil was the common practice of bestowing ecclesiastical benefices on mere boys and youths who had not yet been ordained. This scandalous abuse was closely connected with the custom, which had grown almost to a rule at that period, of appointing the younger sons of noble and princely families to the higher, even the very highest, posts in the Church. 'It is a sign of the greatest folly,' says Geiler von Kaisersberg, 'to select those who are merely distinguished by nobility of descent, in preference to wise and conscientious men. Germany is especially conspicuous for folly of this sort.' 'We appoint to rule over our Church ignorant, pleasure-seeking, illiterate men, merely because of their aristocratic birth and high connections.' 'Formerly the clergy were chosen chiefly for their piety and learning.'

After the last decades of the fifteenth century

there was a great increase of dioceses, in which the nobility gained exclusive possession of cathedral posts in episcopal and archiepiscopal churches, while at the same time the princely families worked unremittingly at getting the bishoprics and archbishoprics into their own power. When the ecclesiastical storm broke out, at the end of the second decade of the sixteenth century, the following sees were already occupied by sons of princes: Bremen, Freising, Halberstadt, Hildesheim, Magdeburg, Mayence, Merseburg, Metz, Minden, Münster, Naumburg, Osnabrück, Paderborn, Passau, Regensburg, Spires, Verden, and Verdun. The archbishop of Bremen was at the same time bishop of Verden; the bishop of Osnabrück was also bishop of Paderborn; the archbishop of Mayence at the same time archbishop of Magdeburg and bishop of Halberstadt.

It was the universal complaint that many of the bishops neither could nor would live in the dioceses of which they enjoyed the emoluments, and that many of them were more fitted for sword and helmet than for mitre and crosier.

The ill-feeling of the people towards these warlike prelates increased from year to year, and found poetic expression in such popular songs as the following:

> Dem Kriegsmann das Feld, dem Pfaffen das Chor;
> Wenn's sich verkehrt, dann siehe dich vor.'[1]

Special contempt was excited by the Teutonic Order, which seemed to exist for no better purpose than to exercise sovereign authority over a certain district, and in right of its spiritual privileges to secularise the Church. Instead of spearing their enemies—

[1] The camp for the warrior, the altar for the priest;
When this order's reversed let the people take care.

so went the saying—the knights were content to spear roasted capons, partridges, geese, and ducks.

The burghers and sons of burghers, who were excluded from all episcopal seats and higher Church dignities, were also by degrees debarred from entrance into many of the monasteries; these latter, with all their immense advantages for culture and instruction, were reserved entirely for the nobility. It was these aristocratic monasteries which most frequently set themselves against clerical reform; but in the Mendicant Orders also, whose ranks were chiefly recruited from the burgher class, resistance was often opposed to attempts at Church reform. It was from many of the monasteries of this order that the monks had their origin—the Augustinian monks of Munich, in 1481, for instance. The monks whom Geiler von Kaisersberg branded most severely—'those bad, disorderly louts; I cannot call them anything else'—were the Barefooted Friars, whose lives certainly were anything but creditable.

In very many places complaints were loud against mercenary abuse of sacred things, against the wanton suspension of clerical punishments (especially the interdict), of the large and frequent sums of money sent to Rome, of annates and hush-money. A bitter feeling of hatred against the Italians, who held the German nation so cheap and followed only after covetousness, began gradually to gain ground, even among men who, like Archbishop Berthold von Henneberg, were true sons of the Holy Church. 'The Italians,' wrote Berthold on September 9, 1496, 'ought to reward the Germans for their services, and not drain the sacerdotal body with frequent extortions of gold; the clergy, especially in Germany, were quite poor enough without

this, and would not spurn the smallest help and support from the Holy Apostolic Chair.'

Undermining of Church Authority

The grievances which had thus arisen out of the social conditions of the ecclesiastical body were systematically turned to account by a later school of Humanists for undermining the authority of the Church and the religious convictions of the people. These younger Humanists had gradually grown up to power and consideration side by side with the older ones, and in the second decade of the century they stood forth in a firm, compact body. The worthiest representatives of the older school also were invariably the undaunted opponents of all clerical evils and abuses, but the authority of the Church, with its supreme Head on earth, was an unquestionable element in their creed; all the fundamental doctrines of the faith were sacred to their hearts; it was, indeed, their very love for the Catholic Church which was the mainspring of their reform labours. The younger Humanists, on the other hand, vaunting themselves on a shallow, superficial culture, set themselves up as altogether superior to the Church, to Christendom, and to all the legitimate demands of morality. They were not content to use pagan antiquity simply as material for culture: they wished to make it part and parcel of the life of younger nations, and to substitute for the inexorable laws of Christian morality the easy-going philosophy of the ancients. Many of them aimed at the complete overthrow of all existing conditions, and they kindled an intellectual civil war which in the course of a few

years utterly destroyed all the seed, blossom, and fruit of the reformation period. They detested the practitioners of the newly introduced foreign law code; nevertheless, as adherents and representatives of the old heathen policy, and with their outrageous contempt for the Church and the clergy, they themselves were co-operating towards the same ends as these Roman lawyers. First and foremost they aimed at the diminution of Church property; and, next to this, at transferring the spiritual jurisdiction of the bishops to the princes and magistrates. Many secular princes had already mixed themselves up in purely spiritual affairs without encountering any opposition, and in the reorganisation of these matters they had even been appealed to by the reformers.

The authority of the Papal Chair was pronounced by princely councillors to be a hard, oppressive yoke.

German Heretics in the Fifteenth Century

Even in the fifteenth century, chiefly among the supporters of John Huss, there were men who disputed the doctrine of the Pope's infallibility, and went on to upset the authority of the General Councils, the whole hierarchical order, and the weightiest dogmas of the Church. 'I despise the Pope, the Church, and the Councils,' Johann von Wesel declared in 1481, 'and I worship Christ only.' The Church, he said, was in 'Babylonish captivity,' and the Pope was a dressed-up ape. As an 'appointed teacher of Holy Writ,' he opposed the doctrines of absolution, of worship of the saints, of purgatory, and of the sacraments of confession, of the Eucharist, and of holy unction. 'The

sacramental oil,' he said, 'is not any better than that which is eaten in the kitchen.' At the Supper of the Lord the body of Christ could be present without the transformation of the bread. Holy Scripture alone was an infallible source of authority, and must only be explained by itself; faith alone could justify men; and only those preordained by God would partake of salvation. As in his writings, so in his preaching; at Mayence and Worms he expressed himself often in coarse, rude language. He called the clergy 'gluttonous devourers of widows' substance, hounds, and wild beasts'; and once, in preaching on the custom of fasting, he exclaimed, 'If Peter did institute it, he must have done it to increase the sale of his fish. Whenever a man is hungry he may eat, and there is no sin in eating a good fat capon even on Good Friday.' Johann von Wesel was for many years professor at the University of Erfurt, and Martin Luther, speaking of the respect in which he was held there, said: 'Johann von Wesel governed the college at Erfurt with his own books. I myself was a master there.'

The 'Bohemian Brothers,' who had several of their eight divergent Confessions of Faith printed in Nuremberg and Leipsic, and were active in spreading their doctrines widely throughout Germany, recognised no difference between priests and laymen, called the Pope Antichrist, and the Roman (hence also the Catholic) Church an assembly of vagabonds and liars, who were under the direct influence of the devil. This condition of religious matters, which soon spread over a great part of Germany, was already in the ascendant at Prague at the beginning of the sixteenth century. 'As regards religion,' wrote the renowned Bohuslav Hassenstein, who visited Prague

in 1502, 'a terrible want of unity prevails here. Nobody is hindered from professing whatever pleases him. Without speaking of the Lollards and the Picards, there are some who deny the Divinity of our Saviour, others who assert that the soul dies with the body, some who think one way of salvation as good as another, and some even who think that hell is a mere fabrication. They do not keep these opinions to themselves, but preach them openly. Men and women, old and young, dispute together on matters of faith, and expound the Holy Scriptures according to their own lights. Every imaginable sect has its representatives here, so great is the longing for something new.'

In Germany the Church still stood erect in the full vigour of life. The Christian spirit and reverent piety still shone out brightly in all classes of society, in families and associations. Nevertheless there were signs already at the end of the fifteenth century of a decrease of faith, and of confusion of mind concerning the doctrines and the worship of the Church. Sebastian Brant complains of the growing contempt of absolution, which he looks upon as a sign of approaching Antichrist; Geiler von Kaisersberg 'of the mocking language concerning the Holy Sacraments.' In a manual of confession dating from the end of the fifteenth century the following question is addressed to the penitent: 'Hast thou despised, mocked, or laughed at the Holy Sacraments, baptism, confirmation, chrisom, holy unction, or holy wedlock?' In a sermon preached in the year 1515 people are introduced who talk as follows: 'We have now the Holy Scriptures in our own hands, and can read and understand for ourselves what is necessary to salvation; we no longer need the Pope and the Church to instruct us.'

The Bible in the Hands of the People

Up to the year 1518 at least fourteen complete translations of the Bible in High German and five in Low German had been circulated. The Church opposed no resistance to their spread so long as strifes and divisions within her own body brought no pet abuses to light.

But men of insight like Geiler von Kaisersberg and Sebastian Brant doubted from the beginning the advisability of putting the entire Scriptures in the hands of the people. They feared, and rightly feared, that the Bible would be grossly and wilfully perverted by the ignorant and the light-minded, and made to uphold all sorts of doctrinal and moral teaching. God Himself had not placed His Divine Word indiscriminately in the hands of all, for He had not made the reading of it a condition of salvation. All errors had sprung out of false interpretation of the Holy Scriptures. Even to learned commentators the Scriptures presented difficulties enough ; how much more, then, to the ignorant masses ? ' It is dangerous,' said Geiler, ' to give children a knife to cut bread for themselves, for they are very likely to cut their own hands. So with the Holy Scriptures, which contain the bread of God ; they must be read and expounded by those who are more advanced in knowledge and experience, and who can make doubtful meanings clear.' In earnest language he warns the people in his sermons against misuse of the Bible.

' We read the Bible,' he says, ' and other writings, and do not understand what we are reading. We have not the art by which to expound it with real Christian understanding.'

In all departments of life perplexity and confusion prevailed. A tremendous spirit of unrest had taken hold of the people, and gloomy forebodings, such as commonly precede all great revolutions in history, filled every mind.

'A universal scourge, such as has never before been known, threatens to devastate Germany.' Thus wrote the Electors of Mayence and Saxony when urging the newly elected King Charles to hasten over to his orphaned kingdom.

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